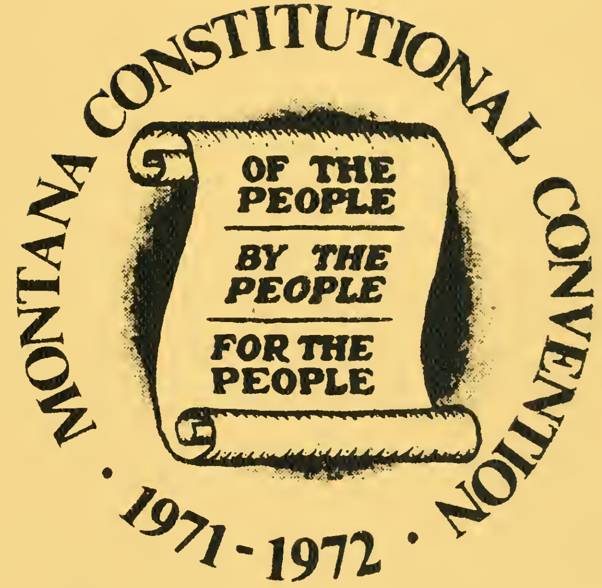
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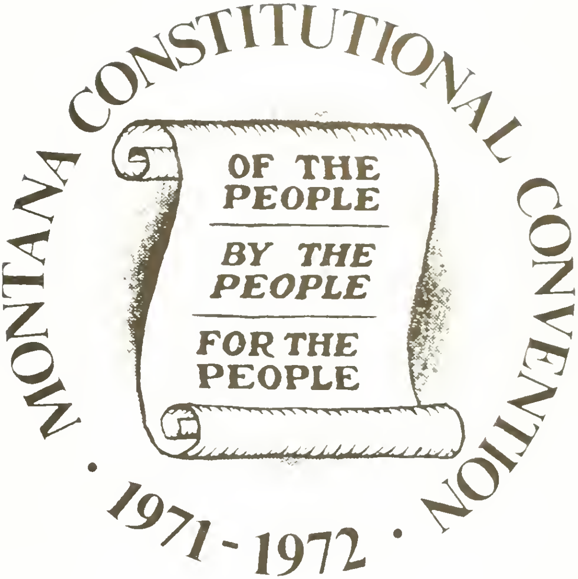
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Editing and Publishing Committee

Margaret S. Warden, Chairman
Jo Ellen Estenson
Mae Nan Robinson Ellingson
Arlyne Reichert
Mark Etchart
John M. Shontz

Legislative Council
Room 138, State Capitol
Telephone 406-449-3064
Helena, Montana 59620

Executive Director
Diana S. Dowling

ciary Article as reported back from Style and Drafting after we've changed—or after we've reconsidered—or after we've considered Section 14, having previously considered all the other sections, and Mr. Schiltz's recommendation that it now be referred to Order of Business Number 5. All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No. (No response)

CHAIRMAN GRAYBILL: Very well. Mr. Schiltz—

DELEGATE SCHILTZ: Mr. Chairman, I don't think we adopted the language either. That was my first motion.

CHAIRMAN GRAYBILL: Yes, you made a motion.

DELEGATE SCHILTZ: I made the motion, but I don't think you voted it.

CHAIRMAN GRAYBILL: You're talking about Section 14?

DELEGATE SCHILTZ: Yes. Did we vote on that?

CHAIRMAN GRAYBILL: We sure did.

DELEGATE SCHILTZ: Oh, okay.

CHAIRMAN GRAYBILL: I wrote it down.

DELEGATE SCHILTZ: Now we're ready for Revenue and Finance.

CHAIRMAN GRAYBILL: You get those lapses, Mr. Schiltz. I have them myself.

DELEGATE SCHILTZ: After 6 hours' sleep, I have them all the time.

CHAIRMAN GRAYBILL: I had mine—more of them yesterday than usual. All right, now, if you'll take, for style and drafting purposes, the—Order of Business Number 5, Revenue and Finance Number 7, in hand. Mr. Schiltz, Order of Business Number 5, Revenue and Finance Number 7, was referred back to the committee.

DELEGATE SCHILTZ: Right. Mr. Chairman, I move that when this committee does arise and report, after having had under consideration Section 13 of the Revenue and Finance Article, that it recommend the same be adopted as amended.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman If the delegates will refer to page 3, Section 13—we lost Section 2 somewhere and found it again and restyled it. These are just minor style changes: "by the state", on line 23, is added.

CHAIRMAN GRAYBILL: Mr Schiltz, let's take it one at a time. Section 13, sub. 1, you've put in a sub. 1, is that right?

DELEGATE SCHILTZ: We've put in a sub. 1, that's right.

CHAIRMAN GRAYBILL: All in favor of Section 13, sub. 1, as amended, with the sub. 1 added, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed. (No response)

CHAIRMAN GRAYBILL: It's adopted. Now—

DELEGATE SCHILTZ: Now, we're on sub. 2. And I move that when this committee does arise and report, after having had under consideration Section 13, sub. 2, that it recommend the same be adopted as amended. Minor style changes throughout.

CHAIRMAN GRAYBILL: Now, sub. 2 does consist of itself plus A, B, and C—

DELEGATE SCHILTZ: A, B and C.

CHAIRMAN GRAYBILL: —which we don't consider subs. Is there any question about the style and drafting in sub. 2? Very well. All in favor of adopting Section 13, sub. 2, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed (No response)

CHAIRMAN GRAYBILL: It's adopted.

DELEGATE SCHILTZ: Mr Chairman. I move that Style and Drafting report concerning Revenue and Finance be referred to Order of Business Number 10.

CHAIRMAN GRAYBILL: Very well. The

motion is to refer the Style and Drafting Revenue and Finance Report Number 7 back to Order of Business Number 10—5. Mr. Schiltz, may I?

DELEGATE SCHILTZ: I'm sorry—

CHAIRMAN GRAYBILL: Right—refer it to Order of Business Number 5, Final Adoption. All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?
(No response)

CHAIRMAN GRAYBILL: So ordered. Mr. Eskildsen, I move—I'd like to have the committee rise and finally report.

DELEGATE ESKILDSEN: Mr. Chairman. I move the committee rise and finally report.

CHAIRMAN GRAYBILL: All in favor of rising and finally reporting on these two items, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: So ordered.

(Proceedings moved from Committee of the Whole to Convention, President Graybill in Chair)

PRESIDENT GRAYBILL: Will the clerk please read the committee reports.

CLERK HANSON: "March 16, 1972. Mr. President. We, your Committee of the Whole, having had under consideration business under General Orders, recommend as follows: that the committee rise and finally report. Signed: Graybill, Chairman."

UNIDENTIFIED DELEGATE: Mr. President.

PRESIDENT GRAYBILL: Just a minute. Does anyone want the report read in full? Very well. Mr.—

DELEGATE ESKILDSEN: I move the adoption of the Committee of the Whole report.

PRESIDENT GRAYBILL: The motion is to adopt the Committee of the Whole report. All in favor, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed.
(No response)

PRESIDENT GRAYBILL: Very well. Now, without objection, we are on Order of Business Number 10. Without objection, I'd like to revert to Order of Business Number 5 to take on final consideration of these three matters. Is there objection? Very well, we're on Order of Business Number 5. And the first one up is the Judiciary Article, the same thing we just worked on. Order of Business Number 5, Final Consideration, Style and Drafting, Judiciary Number 5. And now is the time for final adoption. These are all roll call votes. You'll recall that our style is that I ask for the clerk to read the section. He reads the title only. We then call for the vote; we then take it on the voting machines and see what happens. Very well. Mr. Clerk, will you read the title of the report and Section 1 of the Judiciary Article.

CLERK HANSON: "Order of Business Number 5, Final Consideration, Style and Drafting, Judiciary Number 5. Article, the Judiciary. Section 1, Judicial powers." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 1 of the Judiciary Article, vote Aye on the voting machines; opposed, vote No. Have all the delegates voted?
(No response)

PRESIDENT GRAYBILL: Any delegate wish to change his vote?
(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Excused
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye

Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Excused
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Absent
Driscoll	Absent
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Absent
Felt	Absent
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Absent
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Absent
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Absent
Noble	Absent
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Excused
Wilson	Aye
Woodmansey	Aye

DELEGATE ETCHART: Etchart votes Aye.

PRESIDENT GRAYBILL: Etchart votes Aye.

CLERK HANSON: Mr. Chairman [President], 88 delegates voting Aye, no delegates—89 delegates voting Aye and no delegates voting No.

PRESIDENT GRAYBILL: Very well. Section 1 is adopted. Mr. Clerk, Section 2.

CLERK HANSON: "Section 2, Supreme court jurisdiction." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 2 of the Judiciary Article, Supreme court jurisdiction, vote Aye; opposed, vote No. Have all the delegates voted?

(No response)

PRESIDENT GRAYBILL: Any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Please take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Excused
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Nay
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Nay
Champoux	Aye
Choate	Aye
Conover	Excused
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Absent
Driscoll	Absent
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Absent
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Absent
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Absent
Noble	Absent
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Excused
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. Chairman [President], 88 delegates voting Aye, 2 voting No.

PRESIDENT GRAYBILL: 88 having voted Aye and 2 voting No, it's adopted. Section 3, Mr. Clerk. And let's start pointing out that Section 3 includes two subsections.

CLERK HANSON: "Section 3, Supreme

court organization", containing two subsections, Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 3 of the Judiciary Article, vote Aye; so many as opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Please cast the ballot.

Mr. Johnson, for what purpose do you rise?

DELEGATE JOHNSON: To vote Aye, if you please.

PRESIDENT GRAYBILL: Johnson votes Aye.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Absent
Bates	Excused
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Excused
Cross	Aye
Dahood	Aye
Davis	Absent
Delaney	Absent
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Nay
Etchart	Aye
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Absent
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Nay
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Absent
Murray	Absent
Noble	Aye
Nutting	Nay
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Nay
Rygg	Absent
Scanlin	Aye
Schiltz	Aye
Siderius	Nay
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye

Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Excused
Wilson	Nay
Woodmansey	Aye

CLERK HANSON: Mr. President, Johnson votes Aye. 83 delegates voting Aye, 6 voting No.

PRESIDENT GRAYBILL: Very well. Section 3 is adopted. Will the clerk read Section 4.

CLERK HANSON: "Section 4, District court jurisdiction," containing three subsections, Mr. President.

PRESIDENT GRAYBILL: Very well. So many as shall be in favor of Section 4 of the Judicial Article, vote Aye on the voting machines; so many as shall be opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Cast the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Excused
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Excused
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Absent
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Absent
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Absent
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye

Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Absent
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Excused
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. Chairman [President], 92 delegates voting Aye, no delegates voting No.

PRESIDENT GRAYBILL: Very well, Section 4 is adopted.

CLERK HANSON: "Section 5, Justices of the peace," containing three subsections. Mr. President.

PRESIDENT GRAYBILL: Very well. So many as shall be in favor of Section 5, Justices of the peace, vote Aye; so many as shall be opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Cast the ballot, please.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Nay
Arness	Nay
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Excused
Belcher	Aye
Berg	Aye
Berthelson	Nay
Blaylock	Aye
Blend	Nay
Bowman	Nay
Brazier	Aye
Brown	Nay
Bugbee	Nay
Burkhardt	Nay
Cain	Nay
Campbell	Nay
Cate	Nay
Champoux	Aye
Choate	Aye
Conover	Excused
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Aye
Driscoll	Aye
Drum	Aye
Eck	Nay
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Aye
Foster	Nay
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Nay
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Nay
Harlow	Nay
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Nay
Joyce	Aye
Kamhoot	Aye
Kelleher	Absent
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye

Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Nay
McKeon	Absent
McNeil	Aye
Melvin	Aye
Monroe	Nay
Murray	Absent
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Absent
Reichert	Nay
Robinson	Nay
Roeder	Aye
Rollins	Nay
Romney	Aye
Rygg	Nay
Scanlin	Nay
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Nay
Speer	Nay
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Excused
Wilson	Nay
Woodmansey	Aye

CLERK HANSON: Mr. Chairman [President], 65 delegates voting Aye, 27 voting No.

PRESIDENT GRAYBILL: 65 having voted Aye and 27 No, Section 5 is adopted. Mr. Clerk read Section 6.

CLERK HANSON: "Section 6, Judicial districts," with three subsections. Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 6, vote Aye on the voting machines; and so many as shall be opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Cast the ballot. My concern has been that there were a couple of nonvoters. And I—you might look at your lights. If you're—I didn't want anybody not to be registered that wanted to be. But the ones that weren't voting are now voting, so I presume everybody's all right now.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Excused
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Excused
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Aye
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye

Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Absent
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Absent
Noble	Absent
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Excused
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 91 delegates voting Aye, no delegates voting No.

PRESIDENT GRAYBILL: Very well. Section 6 is adopted. Section 7.

DELEGATE JAMES: Mr. Chairman [President].

PRESIDENT GRAYBILL: Mr. James.

DELEGATE JAMES: I had a lapse or something. I meant to vote Aye, and I was gazing off at the Indians. (Laughter)

PRESIDENT GRAYBILL: Very well, Mr. James. The record may show that you voted—that you wanted to vote Aye on Section 6.

Mr. Martin.

DELEGATE MARTIN: I was meandering and didn't vote. I vote Aye.

PRESIDENT GRAYBILL: All right. Let's record Mr. James and Mr. Martin as Aye on that last one. That makes it Section 6, 93. I don't want to disturb you people—(Laughter)—but if you want to vote, now is the time. Okay. Section 7.

CLERK HANSON: "Section 7, Terms and pay", containing two subsections. Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 7, vote Aye on the voting machines; so many as shall be opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Nay
Artz	Aye
Ask	Nay
Babcock	Nay
Barnard	Aye
Bates	Excused
Belcher	Aye

Berg	Aye
Berthelson	Aye
Blaylock	Nay
Blend	Aye
Bowman	Aye
Brazier	Nay
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Excused
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Nay
Driscoll	Nay
Drum	Nay
Eck	Aye
Erdmann	Aye
Eskildsen	Nay
Etchart	Aye
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Nay
Gysler	Nay
Habedank	Aye
Hanson, R.S.	Nay
Hanson, R.	Nay
Harbaugh	Nay
Harlow	Nay
Harper	Nay
Harrington	Aye
Heliker	Nay
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Nay
Joyce	Aye
Kamhoot	Nay
Kelleher	Absent
Leuthold	Nay
Loendorf	Aye
Lorello	Aye
Mahoney	Nay
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Nay
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Absent
Noble	Aye
Nutting	Nay
Payne	Aye
Pemberton	Aye
Rebal	Absent
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Nay
Rygg	Nay
Scanlin	Aye
Schiltz	Aye
Siderius	Nay
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Nay
Toole	Aye
Van Buskirk	Aye
Vermillion	Nay
Wagner	Aye
Ward	Aye
Warden	Excused
Wilson	Nay
Woodmansey	Aye

CLERK HANSON: Mr. Chairman [President], 64 delegates voting Aye, 29 voting No.

PRESIDENT GRAYBILL: 64 having voted Aye and 29 No, Section 7 is adopted. Section 8.

CLERK HANSON: "Section 8, Selection", containing three subsections. Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 8, containing three subsections, vote Aye on the voting machines; and opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Close the ballot on Section 8.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Nay
Aronow	Nay
Artz	Nay
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Excused
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Nay
Brown	Aye
Bugbee	Nay
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Nay
Conover	Excused
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Absent
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Nay
Etchart	Aye
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Nay
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Absent
Leuthold	Nay
Loendorf	Aye
Lorello	Aye
Mahoney	Nay
Mansfield	Aye
Martin	Absent
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Absent
Noble	Aye
Nutting	Nay
Payne	Aye
Pemberton	Aye
Rebal	Absent
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Nay
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Nay
Toole	Nay
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Excused
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 77 delegates voting Aye, 14 voting No.

PRESIDENT GRAYBILL: 77 having voted Aye, Section 8 is adopted. Section 9.

CLERK HANSON: "Section 9. Qualifications," containing four subsections. Mr. President.

PRESIDENT GRAYBILL: Section 9 on Qualifications. So many as shall be in favor, vote Aye; and so many as shall be opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Excused
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Nay
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Excused
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Aye
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Absent
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Nay
Murray	Absent
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Absent
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Absent
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Excused

Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. Chairman [President], 90 delegates voting Aye, 2 voting No.

PRESIDENT GRAYBILL: 90 having voted Aye and 2 voting No, it passes. Section 10.

CLERK HANSON: "Section 10, Forfeiture of judicial position." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 10, vote Aye; and opposed vote No on the voting machines. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Excused
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Absent
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Excused
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Aye
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Nay
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Nay
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Absent
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Absent
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Absent
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye

Sparks	Aye
Speer	Absent
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Excused
Wilson	Absent
Woodmansey	Aye

CLERK HANSON: Mr. Chairman [President], 88 delegates voting Aye, 2 voting No.

PRESIDENT GRAYBILL: Very well. 88 having voted Aye, Section 10 passes. Section 11.

CLERK HANSON: "Section 11, Removal and discipline," containing three subsections. Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 11, vote Aye; and opposed, No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Nay
Babcock	Aye
Barnard	Aye
Bates	Excused
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Excused
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Aye
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Nay
Etchart	Nay
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Nay
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Nay
Melvin	Aye
Monroe	Nay
Murray	Absent
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Absent

Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Excused
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 88 delegates voting Aye, 6 voting No.

PRESIDENT GRAYBILL: 88 having voted Aye, Section 11 is adopted. Section 12.

CLERK HANSON: "Section 12, Exemption laws." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 12, vote Aye; and so many as opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Absent
Bates	Excused
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Excused
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Aye
Driscoll	Aye
Drum	Absent
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Absent
Foster	Aye
Furlong	Aye
Garlington	Absent
Graybill	Aye
Gysler	Aye
Habedank	Absent
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Nay
Harlow	Aye
Harper	Aye
Harrington	Absent
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Absent
Lorello	Absent
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye

McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Absent
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Absent
Reichert	Aye
Robinson	Aye
Roeder	Nay
Rollins	Nay
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Nay
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Excused
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 82 delegates voting Aye, 4 voting No.

PRESIDENT GRAYBILL: Very well. Section 12 is adopted. Section 13.

CLERK HANSON: "Section 13, Perpetuities." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 13, vote Aye; and opposed, vote No on the voting machines. Have all the delegates voted?

(No response)

PRESIDENT GRAYBILL: Any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Excused
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Excused
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Aye
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye

Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Nay
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Absent
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Absent
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Nay
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Excused
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 92 delegates voting Aye, 2 voting No.

PRESIDENT GRAYBILL: 92 having voted Aye, Section 13 passes. Section 14.

CLERK HANSON: "Section 14, Campaign expenses." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 14, vote Aye; so many as shall be opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Nay
Anderson, J.	Nay
Anderson, O.	Nay
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Nay
Ask	Nay
Babcock	Nay
Barnard	Nay
Bates	Excused
Belcher	Nay
Berg	Nay
Berthelson	Nay
Blaylock	Aye
Blend	Nay
Bowman	Nay
Brazier	Nay
Brown	Nay
Bugbee	Aye
Burkhardt	Nay
Cain	Nay
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Excused
Cross	Aye
Dahood	Aye
Davis	Nay
Delaney	Nay
Driscoll	Nay
Drum	Nay
Eck	Aye
Erdmann	Nay
Eskildsen	Nay
Etchart	Nay
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Nay
Graybill	Aye
Gysler	Nay
Habedank	Aye

Hanson, R.S.	Nay
Hanson, R	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Nay
Joyce	Nay
Kamhoot	Nay
Kelleher	Aye
Leuthold	Nay
Loendorf	Aye
Lorello	Aye
Mahoney	Nay
Mansfield	Nay
Martin	Nay
McCarvel	Aye
McDonough	Nay
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Absent
Noble	Nay
Nutting	Nay
Payne	Nay
Pemberton	Nay
Rebal	Absent
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Nay
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Nay
Skari	Aye
Sparks	Nay
Speer	Aye
Studer	Nay
Sullivan	Aye
Swanberg	Nay
Toole	Nay
Van Buskirk	Aye
Vermillion	Aye
Wagner	Nay
Ward	Aye
Warden	Excused
Wilson	Nay
Woodmansey	Aye

CLERK HANSON: Mr. President, 49 delegates voting Aye, 46 voting No.

PRESIDENT GRAYBILL: 49 having voted Aye, 46 having voted No, I think it's failed. Is that right? Where is the roll? "The Convention shall finally consider individual articles on Order of Business Number 5, section by section, by a majority of elected delegates and refer the said articles to the Committee on Style." No—"by a majority of the elected delegates", so it's failed.

DELEGATE CAMPBELL: Mr. Chairman [President].

PRESIDENT GRAYBILL: Mr. Campbell.

DELEGATE CAMPBELL: I would call for a call of the Convention, please.

PRESIDENT GRAYBILL: Five—how many—four, five, six, seven—how many did we have absent today? The motion is for a call of the Convention. All in favor, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.
(No response)

PRESIDENT GRAYBILL: All right. Notify the Sergeant-at-Arms.
Mr. Eskildsen.

DELEGATE ESKILDSEN: I think we've already taken this vote. Unless we at some other time reconsider, why, this vote has all gone by.

PRESIDENT GRAYBILL: Right, we have, and we'll give these people the same chance as the others had the other day. If they want to, they may move to suspend and get everybody to vote on it. And then, if it fails, it fails; if it passes, it passes. Will everyone indicate their presence by voting Aye on the voting machines. Who's absent, Mr. Clerk? Cate?—

CLERK HANSON: Delegate Murray and Delegate Rebal.

PRESIDENT GRAYBILL: All right. Murray is around and Rebal is around. Let's just send the Sergeant for Murray. He may be down at the—is Murray in the Rules Committee?
Mr. Dahood, for what purpose do you rise?

DELEGATE DAHOOD: Mr. President, Mr. Murray was on our committee; notified me that he could be found at printing.

PRESIDENT GRAYBILL: Very well. Let's have the Sergeant check for Mr. Murray in printing. I think he's at—I'll tell you where he is. Check the Secretary of State's office for—he's taking bids. (Long pause in proceedings) The Convention will be in order.

Mr. Eskildsen, for what purpose do you rise?

DELEGATE ESKILDSEN: Progress having been shown, I move we dispense with the call of the house—call of the Convention.

PRESIDENT GRAYBILL: Very well, the Chair would like to—before we do that, the Chair would like to—now, would you please indicate your presence on the voting machines again, please. Please vote Aye on the voting machines if you're present. All right, who's not present that isn't excused?

CLERK HANSON: Delegate Babcock. She's here now. That's it.

PRESIDENT GRAYBILL: All right, now there's three excused? Very well. All are here. The motion is to stop the call of the house. Is that it? What's the word you want?

DELEGATE ESKILDSEN: Progress having been shown, I move that the call of the house be dispensed with.

PRESIDENT GRAYBILL: The motion is to dispense with the call of the house, progress having been shown. All in favor, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.
(No response)

PRESIDENT GRAYBILL: Very well. Now, the Chair sees the situation as similar to one we had the other day, and I simply want to give everybody a third chance. What we did the other day at this point was have a motion to suspend the rules. If that passes, then we have a motion to reconsider. If that passes, then we vote on Section 14 again, and it either passes or fails. Anyone care to make a motion to suspend the rules?

Mr. Campbell.

DELEGATE CAMPBELL: Mr. Chairman [President]. I make a motion to suspend the rules.

PRESIDENT GRAYBILL: For the purpose of—

DELEGATE CAMPBELL: —reconsidering the last ballot.

PRESIDENT GRAYBILL: —on Section 14 of the Judicial Article, Mr. Campbell?

DELEGATE CAMPBELL: That is correct.

PRESIDENT GRAYBILL: Very well. The motion is to suspend the rules by—to reconsider Section 14 of the Judicial Article again. So many as shall be in favor of that, vote Aye on the voting machines; so many shall be opposed, vote No. This is not a roll call, but it's a tally. Has every delegate voted?
(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?
(No response)

PRESIDENT GRAYBILL: Very well, 58 having voted in favor of suspending the rules and 37 having voted against it, that motion prevails; it needing only a majority. Very well. Is there a motion to reconsider?

DELEGATE CAMPBELL: Mr. Chairman [President].

PRESIDENT GRAYBILL: Mr. Campbell.

DELEGATE CAMPBELL: I move to reconsider to vote on Section 14 of the Judicial Article.

PRESIDENT GRAYBILL: Mr. Campbell, did you vote on the prevailing side or not?

DELEGATE CAMPBELL: No.

PRESIDENT GRAYBILL: Now, the prevailing side was those who voted—the Chair will rule—was those who voted with the—what was my vote?

DELEGATE ESKILDSEN: Mr. President. It would be those that had voted No, if you're going to rule the same way as you ruled—did the other day.

PRESIDENT GRAYBILL: Yes, it would be those who voted No, and that was the 46. Mr.—All right, it would be those who voted Yes. No, 49 voted Yes and 46 voted No. Now, just a minute. I'll think it out. (Laughter) It's those who voted Yes, because they did not prevail. Those who voted No so far have prevailed. Those who voted Yes—So, anybody that voted Yes—and I suppose, Mr. Campbell, you voted Yes?

Mr. Eskildsen, I'll hear you.

DELEGATE ESKILDSEN: Mr. President. When we went through this yesterday or the day before, it was the side that lost was the—or the side that voted No that was the prevailing side. The side that voted 46.

PRESIDENT GRAYBILL: That's right, but the situation was different than it is today. Today—

DELEGATE ESKILDSEN: No, it isn't, Mr. President.

PRESIDENT GRAYBILL: Now, will you listen to me, and I'll listen to you?

DELEGATE ESKILDSEN: All right.

PRESIDENT GRAYBILL: Today—the other day, the people that were against it were in the majority. No? Well, I ruled the other day that the people who had wanted the section passed had not prevailed. Now, the people who want this section passed are the 49, and they did not prevail; so they're the ones that lost. That's really the substance of my vote the other day. Now we can solve this in two manners: you can either challenge my ruling, or is there somebody on the other side that will make a motion to reconsider?

DELEGATE ESKILDSEN: (Inaudible)—and I think it should be—I think we should be consistent. We had the same vote. The reason it lost is because we did not have 51 votes. It lost for that reason.

PRESIDENT GRAYBILL: Right.

DELEGATE ESKILDSEN: And this is the reason you give the day before yesterday or whenever it was—that the side that needed the 51 votes lost even though they had the most votes, so the other side were the ones that had to redo the reconsidering. So it would be the people who—that voted red that would have to reconsider this.

PRESIDENT GRAYBILL: Oh, that's right. I think you're right, Mr. Eskildsen. The Chair has now seen the error of his ways.

Mr. Driscoll.

DELEGATE DRISCOLL: Mr. Chairman [President]. Having voted on the prevailing side in voting Nay, and going to continue to vote Nay, I offer a motion to reconsider.

PRESIDENT GRAYBILL: Very well. Mr. Driscoll has moved to reconsider Section 14 of the Judicial Article. So many as shall be in favor of voting—of reconsidering, vote Aye on the voting machine for a nonrecorded tally vote; and so many as shall not be in favor, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well; 56 have voted to reconsider and 41 have voted not to reconsider.

Now, Mr. Campbell, do you want to make a motion? Or—let's see—yes, we need a motion for the adoption of Section 14.

DELEGATE CAMPBELL: I make a motion for the adoption of Section 14 of the Judicial Article.

PRESIDENT GRAYBILL: Very well. Mr. Campbell has moved to adopt Section 14 of the Judicial Article, entitled "Campaign expenses". This will be a roll call vote. So many as in favor of adopting it, vote Aye; so many as opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, we'll take the ballot.

Aasheim	Nay
Anderson, J.	Nay
Anderson, O.	Nay
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Nay
Ask	Nay
Babcock	Nay
Barnard	Nay
Bates	Excused
Belcher	Nay
Berg	Nay

Berthelson	Nay
Blaylock	Aye
Blend	Nay
Bowman	Nay
Brazier	Nay
Brown	Nay
Bugbee	Aye
Burkhardt	Nay
Cain	Nay
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Excused
Cross	Aye
Dahood	Aye
Davis	Nay
Delaney	Nay
Driscoll	Nay
Drum	Nay
Eck	Aye
Erdmann	Nay
Eskildsen	Nay
Etchart	Nay
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Nay
Graybill	Aye
Gysler	Nay
Habedank	Aye
Hanson, R.S.	Nay
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Nay
Joyce	Nay
Kamhoot	Nay
Kelleher	Aye
Leuthold	Nay
Loendorf	Aye
Lorello	Aye
Mahoney	Nay
Mansfield	Nay
Martin	Nay
McCarvel	Aye
McDonough	Nay
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Nay
Nutting	Nay
Payne	Nay
Pemberton	Nay
Rebal	Nay
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Nay
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Nay
Skari	Aye
Sparks	Nay
Speer	Aye
Studer	Nay
Sullivan	Aye
Swanberg	Nay
Toole	Nay
Van Buskirk	Nay
Vermillion	Aye
Wagner	Nay
Ward	Aye
Warden	Excused
Wilson	Nay
Woodmansey	Aye

CLERK HANSON: Mr. President, 49 voting Aye, 48 voting No.

PRESIDENT GRAYBILL: 49 having voted Aye and 48 having voted No, under Rule—what's the number of the rule, John? Under Rule 51, which requires that a majority of the delegates favor a section on final adoption—under Rule 51, Section 14 fails, and it will be deleted from the Judicial Article. Very well. That wasn't so hard, now, was it?

Mr. Murray, for what purpose do you rise?

DELEGATE MURRAY: Mr. President, I rise for two purposes. One, to apologize to the Convention for not being here and—at the time of a crucial situation; and secondly, for the record so that it will show that I was not here unintentionally. I ask to be forgiven for purpose of the record, because I was in the Purchasing Department assisting with the opening of bids on the voter information pamphlet.

PRESIDENT GRAYBILL: Very well. You may be reexcused, Mr. Murray, if you need to. Very well, we've passed the Judicial Article, all except Section 14. Sections 1 through 13 of the Judicial Article have passed, and we'll send it to Style and Drafting—refer it to Style and Drafting for inclusion in the final document. Now, if you'll take your Order of Business Number 5, Environment and Natural Resources Number 6. Very well, we'll consider on final adoption, section by section, the Environmental and Natural Resources Article. I don't know about your copy, but my copy, on line 5, says Section 5, "Protection". That—you want to watch that—correct that "r" there; it looks like "pp" to me, but we'll correct it. Very well, will the clerk please read the title and Section 1 of the article.

CLERK HANSON: "Order of Business Number 5. Final Consideration, Style and Drafting Environment and Natural Resources Number 6. Article, Environment and Natural Resources. Section 1, Protection and improvement", containing three subsections. Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 1 and the three subsections, please vote Aye on the voting machines; so many as are opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

Mrs. Cross, for what purpose do you rise?

DELEGATE CROSS: Mr. Chairman [President]. I'd like to explain my vote.

PRESIDENT GRAYBILL: You may.

DELEGATE CROSS: Since half a loaf is better than none, I'm voting Aye. (Laughter)

PRESIDENT GRAYBILL: Pretty big loaf, Mrs. Cross. Close the ballot and take the vote.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Excused
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Excused
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Aye
Driscoll	Aye
Drum	Absent
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Absent
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Absent
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye

McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Absent
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Absent
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Excused
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 92 delegates voting Aye, no delegates voting No.

PRESIDENT GRAYBILL: Very well; 92 having voted Aye, Section 1 is adopted. Section 2.

CLERK HANSON: "Section 2, Reclamation." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 2, vote Aye; and so many as opposed, vote No. Have all the delegates voted?

(No response)

PRESIDENT GRAYBILL: Any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Nay
Barnard	Absent
Bates	Excused
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Nay
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Absent
Champoux	Nay
Choate	Nay
Conover	Excused
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Aye
Driscoll	Aye
Drum	Absent
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye

Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Nay
Murray	Aye
Noble	Absent
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Absent
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Excused
Wilson	Absent
Woodmansey	Aye

CLERK HANSON: Mr. President, 86 delegates voting Aye, 5 voting No.

PRESIDENT GRAYBILL: 86 having voted Aye and 5 No, it's adopted. Section 3.

CLERK HANSON: "Section 3, Water rights," containing three subsections. Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 3, vote Aye; so many as opposed, vote No. Three subsections—Four subsections. Have all the delegates voted?

(No response)

PRESIDENT GRAYBILL: Any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Nay
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Excused
Belcher	Aye
Berg	Aye
Berthelson	Nay
Blaylock	Aye
Blend	Absent
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Absent
Champoux	Aye
Choate	Aye
Conover	Excused
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Aye
Driscoll	Aye
Drum	Absent
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye

Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Nay
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Absent
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Excused
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 90 delegates voting Aye, 3 voting No.

PRESIDENT GRAYBILL: 90 having voted Aye and 3 voting No, Section 3 is adopted. Section 4.

CLERK HANSON: "Section 4. Cultural resources." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 4, vote Aye; and opposed, No. Have all the delegates voted?
(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?
(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Excused
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Absent
Bowman	Aye
Brazier	Nay
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Excused
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Aye
Driscoll	Aye

Drum	Absent
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Nay
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Absent
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Nay
Mansfield	Nay
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Absent
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Nay
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Nay
Ward	Nay
Warden	Excused
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 86 delegates voting Aye, 7 voting No. Mr. President.

PRESIDENT GRAYBILL: 86 having voted Aye, Section—and 7, No, Section 4 is adopted. Will you now turn to the section on Agriculture, and will the clerk read the title and first section.

CLERK HANSON: "Order of Business Number 5, Final Consideration, Style and Drafting Agriculture Number 6. Article, Agriculture. Section 1, Department of Agriculture." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 1, vote Aye on the voting machines; opposed, vote No. Have all the delegates voted?

(No response)

PRESIDENT GRAYBILL: Any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Excused
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye

Blend	Aye
Bowman	Nay
Brazier	Aye
Brown	Nay
Bugbee	Nay
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Excused
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Aye
Driscoll	Aye
Drum	Absent
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Nay
McKeon	Nay
McNeil	Aye
Melvin	Aye
Monroe	Nay
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Nay
Roeder	Nay
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Nay
Studer	Nay
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Excused
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 86 delegates voting Aye, 10 voting No.

PRESIDENT GRAYBILL: 86 having voted Aye and 10 No, Section 1 is adopted. Section 2.

CLERK HANSON: "Section 2. Special levies." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 2, vote Aye; so many as shall be opposed, vote No. Have all the delegates voted?

(No response)

PRESIDENT GRAYBILL: Any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye

Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Absent
Barnard	Aye
Bates	Excused
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Excused
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Aye
Driscoll	Aye
Drum	Absent
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Aye
Foster	Aye
Furlong	Nay
Garlington	Absent
Graybill	Nay
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Nay
McKeon	Nay
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Nay
Robinson	Nay
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Nay
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Excused
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 87 delegates voting Aye, 7 voting No.

PRESIDENT GRAYBILL: 87 having voted Aye and 7 voting No, Section 2 is adopted. And the Chair hereby refers Natural Resources back to Style and Drafting for inclusion in the final Article—final Constitution. Now, if you'll take Revenue and Finance, Order of Business Number 5—Revenue and Finance Number 7. Will the clerk please read the title and Section 1.

CLERK HANSON: "Order of Business

Number 5, Final Consideration, Style and Drafting Revenue and Finance Number 7. Article, Revenue and Finance. Section 1, Tax purposes." Mr. Chairman [President].

PRESIDENT GRAYBILL: So many as shall be in favor of Section 1, vote Aye on the voting machines; so many as opposed, vote No. have all the delegates voted?

(No response)

PRESIDENT GRAYBILL: Any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Cast the ballot.

Mr. Driscoll.

DELEGATE DRISCOLL: Driscoll votes Aye.

PRESIDENT GRAYBILL: Driscoll votes Aye.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Excused
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Excused
Cross	Aye
Dahood	Aye
Davis	Absent
Delaney	Aye
Driscoll	Absent
Drum	Absent
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Nay
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Absent
Romney	Aye
Rygg	Aye
Scanlin	Absent
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye

Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Excused
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, Driscoll votes Aye; 92 delegates voting Aye, 1 voting No.

PRESIDENT GRAYBILL: Section 2.

CLERK HANSON: "Section 2. Tax power inalienable." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 2, vote Aye; opposed, No. Have all the delegates voted?

(No response)

PRESIDENT GRAYBILL: Any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Excused
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Nay
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Excused
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Aye
Driscoll	Aye
Drum	Absent
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Absent
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Nay
Joyce	Aye
Kamhoot	Nay
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Nay
Melvin	Aye
Monroe	Nay
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Absent
Rebal	Aye
Reichert	Aye
Robinson	Aye

Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Absent
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Excused
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 88 delegates voting Aye, 5 voting No.

PRESIDENT GRAYBILL: 88 having voted Aye and 5 voting No, Section 2 is adopted. Section 3.

CLERK HANSON: "Section 3, Property tax administration." Mr. President.

PRESIDENT GRAYBILL: So many shall be in favor of Section 3, vote Aye on the voting machines; so many as are opposed, vote No. Have all the delegates voted?

(No response)

PRESIDENT GRAYBILL: Any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot. Speer votes Aye on Number 3.

Aasheim	Aye
Anderson, J.	Nay
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Nay
Artz	Aye
Ask	Nay
Babcock	Nay
Barnard	Aye
Bates	Excused
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Nay
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Excused
Cross	Aye
Dahood	Aye
Davis	Nay
Delaney	Nay
Driscoll	Aye
Drum	Absent
Eck	Aye
Erdmann	Nay
Eskildsen	Nay
Etchart	Nay
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Nay
Habedank	Aye
Hanson, R.S.	Nay
Hanson, R.	Nay
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Nay
Jacobsen	Aye
James	Aye
Johnson	Nay
Joyce	Aye
Kamhoot	Nay
Kelleher	Aye
Leuthold	Nay
Loendorf	Aye
Lorello	Aye
Mahoney	Nay
Mansfield	Nay
Martin	Aye
McCarvel	Aye
McDonough	Aye

McKeon	Aye
McNeil	Nay
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Nay
Payne	Aye
Pemberton	Nay
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Absent
Schiltz	Aye
Siderius	Aye
Simon	Nay
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Nay
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Nay
Vermillion	Nay
Wagner	Aye
Ward	Aye
Warden	Excused
Wilson	Nay
Woodmansey	Aye

CLERK HANSON: Mr. President, Speer votes Aye on—68 voting Aye, 27 voting No.

PRESIDENT GRAYBILL: Very well. Section 4.

CLERK HANSON: "Section 4, Equal valuation." Mr. Chairman [President].

PRESIDENT GRAYBILL: So many as shall be in favor of Section 4, vote Aye; so many as shall be opposed, vote No. Have all the delegates voted?

(No response)

PRESIDENT GRAYBILL: Any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Nay
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Nay
Artz	Aye
Ask	Nay
Babcock	Nay
Barnard	Absent
Bates	Excused
Belcher	Nay
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Nay
Brown	Absent
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Absent
Choate	Aye
Conover	Excused
Cross	Aye
Dahood	Aye
Davis	Nay
Delaney	Nay
Driscoll	Aye
Drum	Absent
Eck	Aye
Erdmann	Aye
Eskildsen	Nay
Etchart	Nay
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Nay
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Nay
Jacobsen	Aye
James	Aye
Johnson	Nay

Joyce	Aye
Kamhoot	Nay
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Nay
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Nay
Melvin	Aye
Monroe	Absent
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Nay
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Absent
Schiltz	Aye
Siderius	Aye
Simon	Nay
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Nay
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Nay
Vermillion	Nay
Wagner	Aye
Ward	Aye
Warden	Excused
Wilson	Nay
Woodmansey	Aye

CLERK HANSON: Mr. President, 69 delegates voting Aye, 22 voting No.

PRESIDENT GRAYBILL: Very well; 69 having voted Aye and 22 No, Section 4 is adopted. Section 5.

CLERK HANSON: "Section 5, Property tax exemptions," containing two subsections. Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 5, vote Aye; opposed, No. Have all the delegates voted?

(No response)

PRESIDENT GRAYBILL: Any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Nay
Anderson, J.	Nay
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Nay
Artz	Nay
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Excused
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Nay
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Excused
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Nay
Driscoll	Aye
Drum	Absent
Eck	Aye
Erdmann	Nay
Eskildsen	Nay
Etchart	Nay
Felt	Nay
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Nay
Habedank	Nay

Hanson, R.S.	Nay
Hanson, R.	Nay
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Nay
Joyce	Aye
Kamhoot	Nay
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Nay
Mansfield	Nay
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Nay
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Nay
Payne	Aye
Pemberton	Nay
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Absent
Schiltz	Aye
Siderius	Aye
Simon	Nay
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Nay
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Excused
Wilson	Nay
Woodmansey	Aye

CLERK HANSON: Mr. President, 71 delegates voting Aye, 24 voting No.

PRESIDENT GRAYBILL: 71 having voted Aye and 24 No, Section 5 passes. Section 6.

CLERK HANSON: "Section 6, Highway revenue nondiversion," containing two subsections. Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 6, vote Aye; so many as shall be opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Nay
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Nay
Artz	Nay
Ask	Nay
Babcock	Nay
Barnard	Nay
Bates	Excused
Belcher	Aye
Berg	Nay
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Nay
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Nay
Conover	Excused
Cross	Aye
Dahood	Aye
Davis	Nay
Delaney	Nay
Driscoll	Aye

Drum	Absent
Eck	Aye
Erdmann	Nay
Eskildsen	Nay
Etchart	Aye
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Nay
Hanson, R.	Nay
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Nay
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Nay
Joyce	Aye
Kamhoot	Nay
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Nay
Mansfield	Nay
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Nay
Melvin	Aye
Monroe	Aye
Murray	Nay
Noble	Nay
Nutting	Nay
Payne	Aye
Pemberton	Nay
Rebal	Nay
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Nay
Rygg	Aye
Scanlin	Nay
Schiltz	Aye
Siderius	Aye
Simon	Nay
Skari	Nay
Sparks	Nay
Speer	Aye
Studer	Nay
Sullivan	Aye
Swanberg	Nay
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Excused
Wilson	Nay
Woodmansey	Aye

CLERK HANSON: Mr. President, 62 delegates voting Aye, 34 voting No.

PRESIDENT GRAYBILL: Very well; 62 having voted Aye and 34 having voted No, Section 6 is adopted. Section 7.

CLERK HANSON: "Section 7, Tax appeals." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 7, vote Aye; opposed, No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Nay
Barnard	Aye
Bates	Excused
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye

Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Excused
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Aye
Driscoll	Aye
Drum	Absent
Eck	Aye
Erdmann	Nay
Eskildsen	Nay
Etchart	Aye
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Absent
Lorello	Aye
Mahoney	Nay
Mansfield	Nay
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Nay
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Absent
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Nay
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Nay
Ward	Aye
Warden	Excused
Wilson	Nay
Woodmansey	Aye

CLERK HANSON: Mr. President, 85 delegates voting Aye, 8 voting No.

PRESIDENT GRAYBILL: 85 having voted Aye and 8 No, Section 7 is adopted. Section 8.

CLERK HANSON: "Section 8, State debt." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 8, vote Aye on the voting machines; and opposed, No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Nay
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Nay
Artz	Aye
Ask	Nay
Babcock	Nay

Barnard	Nay
Bates	Excused
Belcher	Nay
Berg	Nay
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Nay
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Excused
Cross	Aye
Dahood	Aye
Davis	Nay
Delaney	Nay
Driscoll	Aye
Drum	Absent
Eck	Aye
Erdmann	Nay
Eskildsen	Nay
Etchart	Nay
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Nay
Habedank	Aye
Hanson, R.S.	Nay
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Nay
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Nay
Loendorf	Aye
Lorello	Aye
Mahoney	Nay
Mansfield	Nay
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Nay
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Nay
Payne	Aye
Pemberton	Nay
Rebal	Nay
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Nay
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Nay
Sullivan	Aye
Swanberg	Nay
Toole	Aye
Van Buskirk	Nay
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Excused
Wilson	Nay
Woodmansey	Aye

CLERK HANSON: Mr. President, 67 delegates voting Aye, 28 voting No.

PRESIDENT GRAYBILL: 67 having voted Aye, 28 No, Section 8 is adopted. Section 9.

CLERK HANSON: "Section 9, Balanced budget." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 9, vote Aye. (Laughter) Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, cast the ballot. Some people are always switching. (Laughter)

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Excused
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Nay
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Excused
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Aye
Driscoll	Aye
Drum	Absent
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Absent
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Nay
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Absent
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Excused
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 91 delegates voting Aye, 2 voting No.

PRESIDENT GRAYBILL: 91 having voted Aye and 2 voting No, Section 9 is adopted. Section 10.

CLERK HANSON: "Section 10, Local government debt." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 10, vote Aye; so many as opposed, vote No. Have all the delegates voted?

(No response)

PRESIDENT GRAYBILL: Any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Nay
Babcock	Nay
Barnard	Aye
Bates	Excused
Belcher	Nay
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Nay
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Excused
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Nay
Driscoll	Aye
Drum	Absent
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Nay
Hanson, R.S.	Nay
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Nay
Johnson	Nay
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Nay
Mahoney	Nay
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Nay
Melvin	Aye
Monroe	Nay
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Nay
Roeder	Aye
Rollins	Nay
Romney	Aye
Rygg	Aye
Scanlin	Absent
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Nay
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Excused
Wilson	Nay

Woodmansey	Aye

CLERK HANSON: Mr. President, 77 delegates voting Aye, 17 voting No.

PRESIDENT GRAYBILL: Very well; 77 having voted Aye and 17 No, Section 10 is adopted. Section 11.

CLERK HANSON: "Section 11. Use of loan proceeds." Mr. President.

PRESIDENT GRAYBILL: So many shall be in favor, vote Aye; and opposed, vote No. All the delegates voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Excused
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Excused
Cross	Aye
Dahood	Absent
Davis	Aye
Delaney	Aye
Driscoll	Aye
Drum	Absent
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Absent
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Nay
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Nay
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye

Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Excused
Wilson	Absent
Woodmansey	Aye

CLERK HANSON: Mr. President, 90 delegates voting Aye, 2 voting No.

PRESIDENT GRAYBILL: Very well. Section 12.

CLERK HANSON: "Section 12, Strict accountability." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 12, vote Aye; and so many as shall be opposed, vote No. Have all the delegates voted?

(No response)

PRESIDENT GRAYBILL: Any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Excused
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Excused
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Aye
Driscoll	Aye
Drum	Absent
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Nay
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Nay
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Nay
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye

Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Absent
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Excused
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 91 delegates voting Aye, 3 voting No.

PRESIDENT GRAYBILL: Very well; 91 having voted Aye; 3 No, Section 12 is adopted. Section 13.

CLERK HANSON: "Section 13, Investment of public funds," containing two subsections. Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 13, vote Aye; and so many as shall be opposed, vote No.

Mr. McNeil, for what purpose do you rise?

DELEGATE McNEIL: Mr. Chairman [President], I rise to explain my vote.

PRESIDENT GRAYBILL: You may explain it.

DELEGATE McNEIL: Mr. Chairman [President]. I supported the Eskildsen amendment to keep in the Board of Equalization. I supported the Swanberg amendment to keep some limitation on state debt. I supported the Aasheim amendment to keep the maximum 2-mill levy for the imposition of a—for the support of state government by a mill levy on property taxes. There is no way I can support a Revenue and Finance Article in which the only limitation on spending is the imagination of the Legislature—Dagwood, in the comic strip—and I agree that's like giving a monkey his own banana plantation.

PRESIDENT GRAYBILL: Very well. Have all the delegates voted?

(No response)

PRESIDENT GRAYBILL: Any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Has everybody voted that wants to vote?

(No response)

PRESIDENT GRAYBILL: Very well. We'll close the ballot.

DELEGATE JOYCE: Mr. Chairman [President], Joyce votes Aye.

PRESIDENT GRAYBILL: Joyce votes Aye.

Aasheim	Nay
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Excused
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Absent
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Absent
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Excused
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Aye
Driscoll	Aye
Drum	Absent

Eck	Aye
Erdmann	Aye
Eskildsen	Nay
Etchart	Aye
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Absent
Gysler	Aye
Habedank	Nay
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Nay
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Nay
Holland	Absent
Jacobsen	Aye
James	Nay
Johnson	Nay
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Nay
Lorello	Aye
Mahoney	Nay
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Nay
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Nay
Reichert	Aye
Robinson	Aye
Roeder	Nay
Rollins	Nay
Romney	Aye
Rygg	Aye
Scanlin	Nay
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Nay
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Excused
Wilson	Nay
Woodmansey	Aye

CLERK HANSON: Mr. President, Joyce voting Aye; 76 delegates voting Aye, 16 voting No.

PRESIDENT GRAYBILL: 76 having voted Aye and 16 No, Section 13 is adopted. You've now adopted all thirteen articles of the Revenue and Finance—thirteen sections of the Revenue and Finance Article. The Chair will refer it to Style and Drafting for inclusion in the final document. Very well. We've finished with the items on Order of Business Number 5 that we had to deal with today. Without objection, we'll proceed back to Order of Business Number 7. Is there objection? I mean Number 10—Number 10, excuse me.

Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. President. I move the Convention resolve itself into the Committee of the Whole for the purpose of handling business under General Orders.

PRESIDENT GRAYBILL: The motion is to resolve this Convention into Committee of the Whole. All in favor, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

(No response)

PRESIDENT GRAYBILL: So ordered.

(Committee of the Whole)

CLERK HANSON: "March 16th, 1972. The following committee proposals are now on General Orders: Local Government, General Government, Style and Drafting Report Number 8 of Education, and Style and Drafting Number 10, Education." Eight is Bill of Rights.

CHAIRMAN GRAYBILL: Very well. Members of the committee, the only Style and Drafting report that's been on General Orders 48 hours is Bill of Rights. Education will be up tomorrow; that is, its 48 hours will be up tomorrow. If you'll all take your Bill of Rights Style and Drafting report and turn therein to page 9—use page 9 if you want to see the changes the committee made. You'll recall that the manner in which we do this is to read the title, turn it over to the Chairman, the Chairman explains it. We take a voice vote unless a roll call is called for. Will the clerk please read the title and Preamble of the Bill of Rights Proposal Number 8.

CLERK HANSON: "Montana Constitution Convention, 1971-1972. Report of Committee on Style, Drafting, Transition and Submission on Bill of Rights Number 8, reported March 13, 1972. Schiltz: Chairman. Be it proposed by the Bill of Rights Committee that there be a new article on the Bill of Rights to read as follows. 'Preamble.'" Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: I move that when this committee does arise and report, after having had under consideration Style and Drafting Report Number 8 and the Preamble thereof, it recommend the same be adopted. There are no changes in the Preamble.

CHAIRMAN GRAYBILL: Is there any discussion of the Preamble? On page 9, Style and Drafting report. Very well. All in favor of the Preamble, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted. Mr. Chairman—Mr. Clerk, Section 1 of the Declaration of Rights.

CLERK HANSON: "Declaration of Rights. Section 1, Popular sovereignty." Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman. I move that when this committee does arise and report, after having had under consideration Section 1, Style and Drafting Report Number 8, it recommend the same be adopted.

Mr. Chairman. We've made two sentences out of one rather long sentence. Otherwise, no changes. I might say in connection with the entire Bill of Rights that, in our first comment, we recognized that there is a lot of personal effort in here, and because it wasn't constitutionally substantive, in many cases we had a light hand in editing the Bill of Rights.

CHAIRMAN GRAYBILL: Very well. Is there any discussion of Section 1? All in favor of Section 1, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted. Section 2.

CLERK HANSON: "Section 2, Self-government." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman. I move that when this committee does arise and report, after having had under consideration Section 2 of Style and Drafting Report Number 8, it recommend the same be adopted.

Mr. Chairman, minor style changes in Section 2. Deleted the words "of the state" as not being necessary and substituted the word "the" for the possessive pronoun on line 23. That's all.

CHAIRMAN GRAYBILL: Is there any discussion of Section 2? All in favor of Section 2, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted. Section 3.

CLERK HANSON: "Section 3, Inalienable rights." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman. I move that when this committee does arise and report, after having had under consideration Section 3, Style and Drafting Report Number 8, it recommend the same be adopted.

Mr. Chairman, minor style changes. I have a note I want to check, though. Oh, you'll notice on page 10, line 2, we changed "the people" to "all persons", for the reason that they are doing some relating one to another and it's pretty hard for the people to relate. So we changed it to "All persons—recognize corresponding responsibilities".

CHAIRMAN GRAYBILL: Is there any discussion of Section 3? All in favor of Section 3, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No. (No response)

CHAIRMAN GRAYBILL: It's adopted. Section 4.

CLERK HANSON: "Section 4, Individual dignity." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman. I move that when this committee does arise and report, after having had under consideration Section 4 of Style and Drafting Report Number 8, it recommend the same be adopted.

Mr. Chairman, style changes. We put the statement in the positive as opposed to the negative and would—on the supposition that's what a Bill of Rights should do.

CHAIRMAN GRAYBILL: Any discussion of Section 4?

Mr. Cate.

DELEGATE CATE: Mr. Schiltz, for the record, I take it you did not intend to eliminate cities or towns or counties from this prohibition?

DELEGATE SCHILTZ: Well, oh, I should have noted that; I have a mark on it. Agencies and subdivisions are included; we've used that—Let me see, where am I?

CHAIRMAN GRAYBILL: You've used the state only.

DELEGATE SCHILTZ: Oh, I see, yeah, agencies and subdivisions by definition are part of the state and they're included in the state, so for that reason we took them out.

CHAIRMAN GRAYBILL: Very well, all in favor of Section 4, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed? (No response)

CHAIRMAN GRAYBILL: It's adopted. Section 5.

CLERK HANSON: "Section 5. Freedom of religion." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman. I move when this committee does arise and report, after having had under consideration Section 5, Style and Drafting Report Number 8, it recommend the same be adopted.

Mr. Chairman. We just struck "of Montana" so it reads "the state".

CHAIRMAN GRAYBILL: Any discussion of Section 5? All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No. (No response)

CHAIRMAN GRAYBILL: It's adopted. Section 6.

CLERK HANSON: "Section 6, Freedom of assembly." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman. I move that when this committee does arise and report, after having had under consideration Section 6 of Style and Drafting Report Number 8, it recommend the same be adopted.

Mr. Chairman. You will recall that we had some little difficulty the other day on the right peaceably to assemble, and so on, and it was a little cumbersome. Now, as restyled, this states one right to assemble for two purposes; one to petition—one of the purposes being to petition for redress; and the other, to protest against government action.

CHAIRMAN GRAYBILL: Any discussion of Section 6?

DELEGATE SCHILTZ: Mr. McNeil has a question.

CHAIRMAN GRAYBILL: Mr. McNeil.

DELEGATE McNEIL: Mr. Chairman. Will Delegate Schiltz yield to a question?

DELEGATE SCHILTZ: I yield.

DELEGATE McNEIL: Just for the record, Jack, I want to be perfectly clear that taking out the second "peaceably" that I had put in does not express an intent for nonpeaceable protest of governmental action.

DELEGATE SCHILTZ: I would think not.

CHAIRMAN GRAYBILL: Mr. Schiltz, will you yield to a question from the Chair?

DELEGATE SCHILTZ: Yes.

CHAIRMAN GRAYBILL: Did it used to read, "The people shall have the right peaceably to assemble, petition for redress or peaceably protest government actions"?

DELEGATE SCHILTZ: Yes. Right.

CHAIRMAN GRAYBILL: I don't see—was there another "to" in there? My question is—

DELEGATE SCHILTZ: Well, that was added on the floor, I think by Mr. McNeil.

CHAIRMAN GRAYBILL: Well, my problem is this, Mr. Schiltz. You've said that the people shall have the right peaceably to assemble for two purposes. I'm wondering if the initial language didn't say that they had the right to peaceably assemble, whatever the purpose might be.

Mrs. Eck.

DELEGATE ECK: I believe it did, and I think that it also would grant them the privilege of petitioning without assembling, as it was written. I don't really object to the way this was written, but the meaning is slightly different.

CHAIRMAN GRAYBILL: Can someone find—are you looking up the language we used to have, Mr. Schiltz?

DELEGATE SCHILTZ: No, I don't have that, except as its—

DELEGATE LOENDORF: Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Loendorf.

DELEGATE LOENDORF: What Style and Drafting did here: in the original section, there were three particular, I think, provisions the Chair mentioned. But this was in conflict with the committee's comment, and we restyled it to bring the section into compliance with the comment.

CHAIRMAN GRAYBILL: Mr. Schiltz, what color is your book on—Mr. Dahood, what color is your book?—Section 6 used to say "Freedom of assembly. The people shall have the right peaceably to assemble—comma—petition for redress or peaceably protest governmental action." Mr. Schiltz, the Chair thinks you've made a substantive change by allowing them only to assemble for two purposes. Now, I don't know—I just want to call that to everybody's attention.

DELEGATE SCHILTZ: Mr. Chairman, I don't think we did, because we followed the comment on page 19 of the substantive committee, where they said the basic right to assemble for redress of grievances by petition or remonstrance remains unchanged. The wording was typed up a little, in the phrase "protest government action" was substituted for the phrasing "apply to those invested with the powers of government for redress of grievances by remonstrances." In doing so, the committee notes the paramount position of the right and the invaluable function. In any case, we attempted to interpret those comments, and with the interpretation of those comments, we came up with it. I flagged it and pointed it out just exactly what we had done for this very purpose, you see—if somebody wanted to go back to something else.

CHAIRMAN GRAYBILL: I don't like to argue from the Chair, but I don't think this is a terribly deep argument. But it seems to me that the committee comments could very well have listed some of the reasons that they could've—that people can peaceably assemble. But I can conceive of a lot of times that people might peaceably assemble for other purposes than to petition or have anything to do with the government. And I think that they ought to have that right to peaceably assemble if it's to hold a fair, or if it's to do something else. And I think we have taken it away from them in the language—in the change between the language we originally had and the language we have now.

DELEGATE SCHILTZ: Well, this is one of those things we do up there, and if the people want to go back—if the Convention wants to go back to the original language, we have no problem.

CHAIRMAN GRAYBILL: I got the Chairman up now, let's hear from him; then we'll come to you, Mr. Eskildsen.

DELEGATE DAHOOD: Mr. Chairman. I've listened to the reasons from the Style Committee. I do not think the reasons are valid; I think they have changed the intent and purpose of it. We intended to stand with original Section 26 of the current Constitution, which reads, "The people shall have the right peacefully to assemble for the common good and to apply to those invested with the powers of government for redress of grievances by petition or remonstrance." And I move at this time that Style and Drafting be directed to return to the original language as proposed by the Bill of Rights Committee and adopted by this Committee of the Whole.

CHAIRMAN GRAYBILL: Did you move that?

DELEGATE DAHOOD: I did move it.

CHAIRMAN GRAYBILL: Okay. Mr. Aasheim.

DELEGATE AASHEIM: In the Committee of the Whole, I think we left it this way: That "people shall have the right peaceably to assemble, petition for redress or", and then we included "peaceably protest governmental action".

CHAIRMAN GRAYBILL: Right.

DELEGATE AASHEIM: That's the way we left it. However, at that time I was trying to correct this grammatical misconstruction to say that we should have the right to assemble peaceably and I don't think that it would be necessary to peaceably petition for redress; I don't think a petition could be anything but peaceable. So then we included "peaceably protest governmental action". So I would like to see the Style and Drafting, if they're going to make any changes, to adopt what we did in the Committee of the Whole but to make this grammatical correction, to say that "the right to assemble peaceably", because I don't think that would change the meaning at all.

CHAIRMAN GRAYBILL: All right. Now, some of you may not have your salmon-colored books before you, and the language used to be "The people shall have the right peaceably to assemble, petition for redress or peaceably protest governmental action." You do have the new language before you, "The people shall have the right to assemble peaceably in order to petition for redress or grievance or protest governmental action." The motion at the moment is Mr. Dahood's motion to return to the Convention's language that I just read to you, that we adopted the other day, the non-Style-and-Drafting-change language.

Mr. McNeil.

DELEGATE McNEIL: Mr. Chairman. I concur with the motion of Chairman Dahood to return to the original language, and I think part of the problem lies in the caption. Now our present Constitution just has a section number and no title. The title, which was put on by the committee and retained by Style and Drafting, speaks of freedom of assembly. I think there are three separate, distinct freedoms stated in that one paragraph: the right to peaceably assemble; a separate distinct right to petition for redress, and that need not be by an assembly; and a separate, distinct right peaceably to protest governmental action, which might be by an individual and does not necessarily refer to the right of assembly. So I think we've got three distinct rights there, and I think the original language of the committee ought to be retained, with my extra "peaceably" snuck in there.

CHAIRMAN GRAYBILL: Is there other discussion of Mr. Dahood's motion to restore the language that the Convention adopted in Committee of the Whole? Mr. Lorello, are you up? Okay.

Mrs. Babcock.

DELEGATE BABCOCK: Mr. Chairman. Would there be any possibility of putting those in three sections? I might be for one of them but against some of them.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: There would be the very real problem that it would mess up the automatic typewriters, I will say that.

CHAIRMAN GRAYBILL: Mrs. Babcock, you can move to amend one of them out of there. No, you can't either—no, you can't—not now, not unless we suspend the rules.

DELEGATE BABCOCK: Mr. Chairman, may I ask another question? For instance, could I ask this of Mr. Dahood, please, Mr. Chairman?

CHAIRMAN GRAYBILL: Yes.

DELEGATE DAHOOD: I yield, Mr. Chairman.

DELEGATE BABCOCK: If a teacher at a college, for instance, decides to protest and leaves the classroom and then a student that's going to that college wants to participate in the class but the teacher is out protesting, I believe you're denying the student the right of going to that class.

DELEGATE DAHOOD: Well, I would think the teacher would have violated the contractual obligation. I think that, Delegate Babcock, that's a situation removed from what we're talking about here.

DELEGATE BABCOCK: Okay, thank you, sir.

DELEGATE DAHOOD: And may I recommend to the Committee of the Whole that the language that we drafted and submitted to this Committee of the Whole retains the current protection under our Bill of Rights and we take the position that no basic change should be made in the substance of it, and I renew the motion.

CHAIRMAN GRAYBILL: Very well. Is there other discussion of the motion to return to the language that the Committee of the Whole adopted?

Mrs. Eck.

DELEGATE ECK: Mr. Chairman. I'd like to direct a question to Mr. Schiltz.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE ECK: Mr. Schiltz. I can remember during our discussion of this, we considered whether to add "of grievances" which we didn't have. Now do you think that that would be—what was your thinking in adding this?

DELEGATE SCHILTZ: Well, you're talking substance, and I'm not going to take any position on substance. We had a reason for putting it in there. I think Mr. McNeil really hit it on the head. When we called it freedom of assembly, we decided it was a single thing. It's been 5 days since we went over these and I can't remember all the details of the discussion, but I think that that's just about what happened and that's how it got restyled this way. We don't care in Style and Drafting, but if you want to take "grievances" out of there—I think we picked that up from the comment—I don't care one way or another.

DELEGATE ECK: Mr. Chairman. I was just really indicating that I thought that maybe "of grievances" was a good addition here, but I don't feel strongly one way or the other.

CHAIRMAN GRAYBILL: Very well. The—

Mr. Aasheim.

DELEGATE AASHEIM: Mr. Dahood, do you yield to a question?

DELEGATE DAHOOD: I yield, Mr. Chairman.

DELEGATE AASHEIM: I hate to be nit-picky about this thing, but would you object to—to having—to read "to assemble peaceably"; would that make a difference to your interpretation?

DELEGATE DAHOOD: It would make no difference as far as I'm concerned, Mags. I'm concerned in maintaining the substance that we presented to the Committee of the Whole.

DELEGATE AASHEIM: Yeah. Mr. Chairman, I would like to instruct the—

CHAIRMAN GRAYBILL: Why don't you make a motion to amend it.

DELEGATE AASHEIM: Well, if that's in order, I will do so.

CHAIRMAN GRAYBILL: It is—

DELEGATE AASHEIM: But the—just for a matter of having it in the right order, I'd say the—that the word "peaceably" follow "to assemble".

CHAIRMAN GRAYBILL: Very well, Mr. Aasheim has proposed an amendment to Mr. Dahood's motion that when we return to the original language, it should—we should put the word "peaceably" after "assemble". So it would say, "The people shall have the right to peaceably assemble"—no, "to assemble peaceably". "The people shall have the right to assemble peaceably, petition for redress"—all he's done is make it "assemble peaceably" instead of "peaceably to assemble"—"assemble peaceably".

Mr. Davis.

DELEGATE DAVIS: Mr. President [Chairman]. I don't know whether we need to get that nit-picky. The First Amendment to the United States Constitution provides the people—the right of the people peaceably to assemble and to petititon the government for redress of grievances. So—and our Constitution has had that in all the time, and I think the committee properly considered this and brought it out, and I think we should leave it that way. I don't think we are going to improve on the United States Constitution—that's repetition of that anyway. I think we should leave it the same.

CHAIRMAN GRAYBILL: All right. The issue is on Mr. Aasheim's amendment, now, to make it "assemble peaceably", instead of "peaceably to assemble".

Mr. Aasheim.

DELEGATE AASHEIM: In reply to Mr. Davis, I want to remind him that the people who drew up the original Constitution either walked or came on horseback.

CHAIRMAN GRAYBILL: All right, now, we're going to decide this. Everybody ready? So many as shall be in favor of Mr. Aasheim's amendment to make it "assemble peaceably", vote Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: I'll start over—wait a minute, I'll start over again. So many as shall be in favor of Mr. Aasheim's amendment which is to make it say "assemble peaceably" instead of "peaceably to assemble", say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

CHAIRMAN GRAYBILL: The Chair is in doubt. Vote on the machines. If you want to change it to say "peaceably—"assemble peaceably", vote Aye; if you want to do it the other way, vote No. Now here's a real controversy. We better have a call of the house. All right, has everybody voted?

(No response)

CHAIRMAN GRAYBILL: I'm going to close the ballot; anybody want to change their vote?

(No response)

CHAIRMAN GRAYBILL: 28 having voted to change it to "assemble peaceably" and 55 sticking with the founding fathers in the original Constitution, the motion fails, Mr. Aasheim. All right. Now we are back on Mr. Dahood's motion.

Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, as you read that, I'm not sure that you got Mr. McNeil's second "peaceably" in there, which is in the—

CHAIRMAN GRAYBILL: Yes, it's in there.

DELEGATE SCHILTZ: Is it? Where is it? Because I want to be able to tell the committee.

CHAIRMAN GRAYBILL: All right. If you adopt Mr. Dahood's motion, the section will read, "Freedom of assembly. The people shall have the right peaceably to assemble, petition for redress or peaceably protest governmental action". That's what we did the other day. Now, so many as shall be in favor of Mr. Dahood's motion to use the language of the Committee of the Whole, please say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: So many as shall be opposed, say No.

(No response)

CHAIRMAN GRAYBILL: Okay, we're back to the original language.

Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Section 6, Style and Drafting Report Number 8, as amended, that it recommend the same be adopted.

CHAIRMAN GRAYBILL: Very well, all in favor of Section 6 as amended, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

(No response)

CHAIRMAN GRAYBILL: It's adopted, as amended by going back to the original Committee of the Whole language. Mr. Clerk, Section 7.

CLERK HANSON: "Section 7, Freedom of speech, expression and press." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Section 7, Style and Drafting Report Number 8, it recommend the same be adopted. I shouldn't have any problems with this one, Mr. Chairman. We didn't change anything.

CHAIRMAN GRAYBILL: Is there any discussion? All in favor of Section 7, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

(No response)

CHAIRMAN GRAYBILL: It's adopted. Section 8.

CLERK HANSON: "Section 8, Right of participation." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman. I move when this committee does arise and report, after having had under consideration Section 8, Style and Drafting Report Number 8, it recommend the same be adopted.

Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Only very minor style changes.

CHAIRMAN GRAYBILL: Any discussion?

DELEGATE SCHILTZ: I might call attention to the fact that on line 30 you will see possibly the only "such" that will be in the entire Constitution.

CHAIRMAN GRAYBILL: And that one's unnecessary. All in favor of Section 8, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

CHAIRMAN GRAYBILL: The Ayes have it, narrowly. It's adopted. Section 9.

CLERK HANSON: "Section 9, Right to know." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman. I move when this committee does arise and report, after having had under consideration Section 9, Style and Drafting Report Number 8, it recommend the same be adopted.

Mr. Chairman. There are no changes.

CHAIRMAN GRAYBILL: Mr. Dahood, I know for what purpose you rise. You want—you're going to—let's adopt the Style and Drafting thing, and then we'll open it up at this point for a motion. All those in favor of Section 9, Style and Drafting report, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

(No response)

CHAIRMAN GRAYBILL: It's adopted. Now, Mr. Dahood.

DELEGATE DAHOOD: Mr. Chairman. On behalf of the Bill of Rights Committee, I move at this time that the Committee of the Whole vote to suspend the rules for the purpose of reconsidering Section 9.

CHAIRMAN GRAYBILL: Very well, Mr. Dahood has made a motion to suspend the rules for the purpose of reconsidering Section 9. Is there a discussion on just the issue of suspending the rules? We'll have a roll call vote.

Mrs. Eck, did you want to discuss it?

DELEGATE ECK: I just wanted to be sure that people knew why we were suspending the rules. We have met and have come up with an amendment to this section which appears to be satisfactory to the press. And the committee feels not only it's satisfactory to us, but in reality strengthens the section. Thank you.

CHAIRMAN GRAYBILL: Very well, we'll have a roll call vote. So many as shall be in favor of suspending the rules, vote Aye; and so many shall be opposed, vote No. Has every delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, take the ballot.

Mr. Martin.

DELEGATE MARTIN: I'd like to explain my vote. I am very much in accord with the motion to reconsider, but I must be consistent.

Aasheim	Nay
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Nay
Aronow	Nay
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Nay
Bates	Excused
Belcher	Aye
Berg	Absent
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Nay
Brown	Aye
Bugbee	Aye

Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Nay
Champoux	Aye
Choate	Aye
Conover	Excused
Cross	Aye
Dahood	Aye
Davis	Nay
Delaney	Nay
Driscoll	Aye
Drum	Absent
Eck	Aye
Erdmann	Nay
Eskildsen	Nay
Etchart	Aye
Felt	Aye
Foster	Aye
Furlong	Nay
Garlington	Aye
Graybill	Nay
Gysler	Absent
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Nay
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Absent
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Nay
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Absent
Mahoney	Nay
Mansfield	Aye
Martin	Nay
McCarvel	Aye
McDonough	Aye
McKeon	Nay
McNeil	Aye
Melvin	Absent
Monroe	Nay
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Absent
Rollins	Aye
Romney	Nay
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Nay
Simon	Aye
Skari	Aye
Sparks	Absent
Speer	Aye
Studer	Nay
Sullivan	Aye
Swanberg	Absent
Toole	Absent
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Excused
Wilson	Nay
Woodmansey	Aye

CLERK HANSON: Mr. Chairman, 64 delegates voting Aye, 22 voting No.

CHAIRMAN GRAYBILL: 64 having voted Aye and 22 having voted No, the motion to reconsider is adopted. Now, somebody want—a motion to suspend the rules is adopted, pardon me. Now, somebody want to make a motion to reconsider? We've suspended the rules; now in order to reconsider Section 9, we have to have a motion.

Mr. Dahood.

DELEGATE DAHOOD: Mr. Chairman, I move that the Committee of the Whole reconsider Section 9 for the purpose of adding the following language—I refer the Committee of the Whole to page 6, line 3—after the word "the", by inserting the following words and punctuation: "Legislature, subject to court interpretation, shall have determined that the". The pages have passed to all of the delegates "Right to know", typed with that language inserted. That language is underlined.

CHAIRMAN GRAYBILL: Mr. Dahood has—Mr. Dahood, I presume you voted on the prevailing side?

DELEGATE DAHOOD: I did.

CHAIRMAN GRAYBILL: Very well. Now, I'll allow your motion to reconsider. For those of you that might be following in your Style and Drafting books, it's on page 11, line 6, before the last word in the line, "demand", is where you put in the little phrase.

DELEGATE DAHOOD: Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Dahood.

DELEGATE DAHOOD: If this committee should favor the motion to reconsider on behalf of the Bill of Rights Committee, with two dissenting votes, I will then move to amend Section 9 in the particulars already stated. The Bill of Rights Committee held a hearing at which the protestants of the press were invited to attend. The committee then called a committee meeting and decided that the Right to know, Section 9, should be amended and that comments be added to the Bill of Rights proposal so that there can be no mistake as to the intent behind the amendment. I respectfully request the members of the Committee of the Whole to grant us the right to reconsider—approve the motion so that we may move for that amendment.

CHAIRMAN GRAYBILL: Is there discussion on the motion to reconsider? Very well, all in favor of the motion to reconsider, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

CHAIRMAN GRAYBILL: It's adopted. Mr. Dahood.

DELEGATE DAHOOD: Mr. Chairman and members of the Committee, I move to amend Section 9 in the particulars already stated, adding the words, "the Legislature, subject to court interpretation, shall have determined that", so that Section 9 will then read in these terms: "Section 9. Right to know. No person shall be deprived of the right to examine documents, or to observe the deliberations of all public bodies or agencies of state government and its subdivisions, except in cases in which the Legislature, subject to court interpretation, shall have determined that the demands of individual privacy exceed the merits of public disclosure." Along with it, joined in that motion, is a request that the comments supporting that section, which appear at pages 21, 22 and 23 of the Bill of Rights Committee Proposal Number 8, be amended by adding, at page 23 in the salmon-colored committee proposal, which you have, after the paragraph ending on line 18 on page 23, the following words which will constitute, on behalf of the Bill of Rights Committee and on behalf of its Chairman, our reasons for asking that this amendment be adopted. The comment to be added would read in these terms, the wording: "except in cases in which the Legislature, subject to court interpretation, shall have determined that the demands of individual privacy exceed the merits of public disclosure" is incorporated to require that any administrative decision or regulation adopted pursuant to this section be based either on a legislative enactment or the case law which develops under this provision. The thrust of this effort is similar to the design of the federal Freedom of Information Act, to insure that exceptions be carefully enough defined to reduce the potential for abuse of discretion by those who decide to withhold a document or close a meeting. In denying access, the agency would have to indicate some basis for its decision. The committee notes that the highest court in Montana has in several decisions recognized a broad right of privacy, citing cases. The committee in no way intends to overturn these decisions which establish so important a right. The right of individual privacy announced in this section, intentionally limited to individual privacy so as to preclude a government agency or corporation claiming the right, is intended to curtail disclosure insofar as it is established by the Legislature and/or the courts that the demands of such privacy clearly exceed the merits of public disclosure. The intent of the phrase "subject to court interpretation" is to avoid the situation of a recent sovereign immunity decision in which the State Supreme Court refused to weigh the merits of the doctrine of sovereign immunity, saying the Legislature has spoken, citing that particular decision. It is intended that any legislative exemption under this section be subject to court interpretation and review. This seemingly obvious point is made to emphasize that the courts have a role in balancing the two important rights in the manner specified in this section. My opinion, as Chairman of the Bill of Rights Committee, is that by this amendment we reach that point of compromise that satisfies the press of the State of Montana. We have not taken away any of the substance incorporated in Section 9, Right to know, as adopted by this Committee of the Whole. For reasons that are well known to all of us, we think this particular amendment should be accepted and adopted. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Blaylock.

DELEGATE BLAYLOCK: Mr. President [Chairman]. For the first time I rise in opposition to my Chairman. And I hate to do it, because I like him and I respect him and I have worked together with him very closely through these weeks and I don't think we've ever had a serious disagreement. But like the one man said—he said, "Any time two guys are always together and they're always agreeing, one of them isn't doing any thinking". Now, I just take a couple of moments here to point out a few things. First of all, the language that we adopted in this committee was very carefully worked out in the Bill of Rights Committee. We all agreed to it, and then it was presented to this Committee of the Whole, where it was debated very thoroughly. We have many legal people in this room, and they—and we adopted it. Then, after we—shortly before this came before this Committee of the Whole and after its adoption, came the deluge of criticism saying that we just simply had to change this thing. And one of the things that disturbs me is then that we begin to have some ad hoc committees meeting—and so far as I can find out, not authorized by anyone—and we were presented the other day with a fait accompli in as far as the change of language was concerned. Now, Torrey, a fait accompli is what we boys down in Yellowstone mean when—we use when we've been had. Now, (Laughter) I believe that the language which was originally adopted by this Committee of the Whole and by the Bill of Rights is good language. I believe that we should leave it alone. I would not object to putting into our comments what is meant insofar as giving the Legislature power to lay out those very special cases where we feel that the right—the demands of individual privacy exceed the merits of public disclosure as interpreted by the court. I think this could be put into the comments, but I resist changing this language under pressure. This group held fast in two other instances that I'm very aware of, where great pressure was put on, and I think we should hold fast here.

DELEGATE DAVIS: Mr. President [Chairman]. Where do we stand now? Has Mr. Dahood made a motion to adopt this new amendment?

CHAIRMAN GRAYBILL: Yes.

DELEGATE DAVIS: I would like at this time to make a substitute motion to delete this section.

CHAIRMAN GRAYBILL: Well, just a minute. Mr. Dahood has made a motion to substitute the new language, and your motion will be in order. This is another motion before me, but even if yours prevailed, it's not jeopardized since it was going to start by deleting. Mr. Davis, do you want to delete Section 9 in its entirety?

DELEGATE DAVIS: Yes, Mr. President [Chairman].

CHAIRMAN GRAYBILL: Mr. Foster, for what purpose do you rise?

DELEGATE FOSTER: A point of order. Was the original motion to suspend the rules pursuant upon considering the section as amended, or what's the ruling on that?

DELEGATE DAVIS: Once you open it, it's open for all purposes, isn't it, Mr. President [Chairman]?

CHAIRMAN GRAYBILL: Well, the original order was to suspend the rules to reconsider Section 9, the way I took it. I think it's that broad. Mr. Dahood, you made the motion. Wasn't it to reconsider Section 9?

DELEGATE DAHOOD: Yes, Mr. Chairman. And I conferred with the Chairman of the Rules Committee, and he indicated to me that when I moved that the rules be suspended for the specific purpose of reconsidering Section 9, that that opened Section 9 up to the type of motion that Delegate Davis has attempted to place before this committee.

CHAIRMAN GRAYBILL: I think we—Mr. Foster, I think we have the whole ball of wax before us. And—is that a good phrase, Mr. Foster?

DELEGATE FOSTER: Well, my only point has been that in the past when we have made moves to suspend the rules that, in fact, we've limited it to very narrow interpretation. And I don't want to argue with the Chair, but it does seem that in this case maybe we've taken an exception to the reason—to the way that we've suspended the rules in the past. But I won't—

CHAIRMAN GRAYBILL: Mr. Foster, the Chair would say that it doesn't necessarily try to limit it; the Chair tries to make it specific. And in this case, I wrote down that Mr. Dahood had said "for the purpose of reconsidering Section 9". Now that's what he said. He didn't—then he went ahead and told what he would do later on, on the motion to reconsider; he told what he'd do if that was done. But on the motion to suspend the rules, he just said "for the purpose of reconsidering Section 9". I believe that's correct. Isn't that correct, Mr. Dahood?

DELEGATE DAHOOD: Mr. Chairman. I think perhaps Delegate Foster is correct in this respect, that although the motion to suspend the rules was carried for that specific purpose, the Chair ruled that the Chairman of Style and Drafting should nevertheless move that that particular section be adopted. That was done, and then I moved to amend the section as it was adopted, so I should think that that's beyond—reconsideration is beyond deletion and only open for the purpose of amendment.

CHAIRMAN GRAYBILL: Now, the Chair is going to rule that Section 9 is open for any purpose. Now, if we want to challenge that, I'll be happy to—

DELEGATE BLAYLOCK: I challenge that.

CHAIRMAN GRAYBILL: All right. The challenge is whether Section 9 is open for any purpose. Who is making the challenge?

DELEGATE BLAYLOCK: I will.

CHAIRMAN GRAYBILL: Very well, the Chair has been challenged, and I think the language is that you must vote to sustain a challenge and the Chair gets to explain its position. And I think I have explained the position that I think Mr. Dahood moved to suspend the rules to—with reference to Section 9, and I think Section 9 is now open for rediscussion. But if you wish to sustain Mr. Blaylock's motion that it is not open for rediscussion in the sense that it—what you're really saying, then, is that it is not open for deletion; it's only open for the purposes of Mr. Blaylock's—of Mr. Dahood's motion. And it seems to me that we then have to adopt or not adopt Mr. Dahood's motion only, and having adopted or not adopted his motion only, we'd be dead unless we went back and widened the suspension of the rules. So the Chair rules that it's wide open; and Mr. Blaylock says it's not, it's only open for Mr. Dahood's language. And the motion must be put, do you sustain Mr. Blaylock's objection? So on the voting machines for recorded vote, vote Yes if you vote with Mr. Blaylock and vote No if you vote to sustain the Chair—but Yes to sustain the objection. So many as shall be—or let's say, have all the delegates voted?

(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, I'm going to close the ballot. Take the ballot.

Aasheim	Aye
Anderson, J.	Nay
Anderson, O.	Nay
Arbanas	Aye
Arness	Nay
Aronow	Nay
Artz	Nay
Ask	Nay
Babcock	Nay
Barnard	Aye
Bates	Excused
Belcher	Nay
Berg	Nay
Berthelson	Aye
Blaylock	Aye
Blend	Nay
Bowman	Nay
Brazier	Nay
Brown	Nay
Bugbee	Nay
Burkhardt	Nay
Cain	Nay
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Nay
Conover	Excused
Cross	Aye
Dahood	Aye
Davis	Nay
Delaney	Nay
Driscoll	Nay
Drum	Absent
Eck	Aye
Erdmann	Nay
Eskildsen	Nay
Etchart	Nay
Felt	Nay
Foster	Nay
Furlong	Aye
Garlington	Nay
Graybill	Nay
Gysler	Absent
Habedank	Nay
Hanson, R.S.	Aye
Hanson, R.	Nay
Harbaugh	Aye

Harlow	Nay
Harper	Nay
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Nay
James	Nay
Johnson	Nay
Joyce	Nay
Kamhoot	Nay
Kelleher	Nay
Leuthold	Nay
Loendorf	Nay
Lorello	Aye
Mahoney	Nay
Mansfield	Aye
Martin	Nay
McCarvel	Nay
McDonough	Nay
McKeon	Aye
McNeil	Nay
Melvin	Nay
Monroe	Nay
Murray	Nay
Noble	Nay
Nutting	Nay
Payne	Nay
Pemberton	Nay
Rebal	Nay
Reichert	Nay
Robinson	Nay
Roeder	Nay
Rollins	Nay
Romney	Nay
Rygg	Nay
Scanlin	Nay
Schiltz	Aye
Siderius	Aye
Simon	Nay
Skari	Nay
Sparks	Absent
Speer	Nay
Studer	Nay
Sullivan	Aye
Swanberg	Absent
Toole	Absent
Van Buskirk	Absent
Vermillion	Aye
Wagner	Nay
Ward	Nay
Warden	Excused
Wilson	Nay
Woodmansey	Nay

DELEGATE MAHONEY: Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Mahoney.

DELEGATE MAHONEY: (Inaudible)—that we didn't get this wrong. Actually—the probably—now the Noes are voting in your favor—should have been that you—the Chair—the question is, shall the Chair be sustained? That's probably the proper way to put the motion.

CHAIRMAN GRAYBILL: Well, I don't think it is. We're off the tape, so when we get on the tape I'll explain it, Mr. Mahoney.

CHAIRMAN GRAYBILL: Now, Mr. Mahoney, would you restate your position so it's on the tape?

DELEGATE MAHONEY: Well, Mr. Chairman, all I was trying to state that actually—in my understanding of old, maybe not in this body, but ordinarily on an appeal from the decision of the Chair, it is ordinarily placed—the question is, "shall the Chair be sustained?" And this is a normal parliamentary procedure, and I don't know what we operate under here.

CHAIRMAN GRAYBILL: Right. Now, the Chair would like to explain that we did it backwards here, and we did it backwards here because of Rule 75 which says: "On all appeals from decisions of the Chair, the question shall be, 'Shall the appeal be sustained?'" And this came up before and I—this was pointed out to me and I did explain it clearly that if you voted red, naturally you voted with me since I voted red; and if you voted green, you voted with Mr. Blaylock. So I don't think anyone was confused; but unfortunately, our rules are opposite of *Robert's* on that issue, and that's why I had to explain that. Mr. Clerk will you read the vote.

CLERK HANSON: Mr. Chairman, 23 delegates voting Aye, 67 voting No.

CHAIRMAN GRAYBILL: 67 having voted No, the appeal is not sustained and the Chair is right. Now, before we go on, the Chair would like to explain that one of the reasons I did this is not that I am trying to get into the business here, but I have had other requests from other delegates and I have a pile of papers here for other people that want other amendments. And I know that they wanted to do this, and I was not in a position, unless Mr. Dahood more strictly limited it to freeze them out, and so that's why I did it. Now, we're back on Mr. Davis' motion to delete

Section 9 entirely, and I think I've got you the floor, Mr. Davis.

DELEGATE DAVIS: Mr. President [Chairman] and fellow delegates. I think this is a rather critical situation we've found ourselves in here. This Bill of Rights Committee gave a lot of study and in all good faith made an effort to have disclosure and examination of documents. The press, as I understand their testimony when we're on the floor, had appeared before them; and apparently it was overlooked that the press, of course, was anxious to see what all documents and all records in any office are. And so was the committee, but the committee was also anxious to protect the individual and—it says, "The right of privacy is essential to well-being". Is that the one?

CHAIRMAN GRAYBILL: Right. Number 9, that's Number 10.

DELEGATE DAVIS: Thank you. In other words, it said they will have the right to examine, and everyone says "except in cases in which the demands of individual privacy clearly exceeds the merits of public disclosure". Well now, that would seem to be about as fair as you could put it. In other words, we recognize all through the Bill of Rights we're trying to protect individual rights, and everyone was all for that. And in this we sound like we're all for it, except after it was in and adopted and Mr. Dahood made a very stirring talk on this floor about it, Mr. Martin got up and had the brashness to suggest we delete it then; it was going to cause problems. But we didn't pay much attention to him, so we voted him down 14 to 76, because Mr. Martin's only been in the newspaper business about 50 years and, of course, this is a newspaper and we're all—have been come—90-day wonders we called them in World War II when we got our commission right quick. So in all these things—now we've got a situation where the press has publicly attacked the Convention to the extent of taking front page editorials in the *Billings Gazette*, saying they couldn't support this Constitution. Well now, what if we put something else in here today and maybe next week, like they did this time, they'll find it not quite suitable or something else? It's the type of thing—and it's the very proof, and it's wonderful that it happened—to show what can happen when you try to write something you don't know all about in a Constitution, and two weeks later someone discovers it really is not going to fit their picture like they wanted it, and let's amend it. Well, we're down to the last stage; we can't do much more changing. So let's delouse some of these things we're trying to put in here that aren't going to work forever, and leave it up to the Legislature. The Legislature has an act on the right to know now. The press can go to those legislators and expand on this to whatever degree they want. They can go to the court, and so can the individuals. Let's not try to foster a battle with the press; on the other hand, let's not be intimidated when they say, "We don't like this"; let's not back up. All the words that we said on this floor last week and have a complete compromise—and then the next day we'll hear how we sold out to the Montana Power or someone else by the same story. So let's be consistent; let's delete this whole section and get on with the rest of it and let them work out something that will be acceptable and flexible. The inflexibility of these things is dramatized by what has transpired here; and we can turn around and create just as bad a situation by trying to reach a compromise that we haven't all had time to sit on. We haven't all been involved in this; it's been kind of a private treaty. And I have all the respect in the world for the committee, but under our open rule theory, we should have done 'er all on the floor; we should have had the debates, and we weren't able to. So I think we should, at this point then, delete this and leave it to the Legislature. Thank you.

CHAIRMAN GRAYBILL: Mr. Belcher.

DELEGATE BELCHER: Just one point. I think it ought to be noted that Grace Bates missed the vote, and she's back here and I think we ought to have her vote.

CHAIRMAN GRAYBILL: Very well. Grace, your presence is noted for the journal, and you may vote from now on.

Mrs. Eck.

DELEGATE ECK: Mr. Chairman. This has been my proposal, and I still stand by it. I think that, really, the right to know is one of the provisions that is rather symbolic of our whole Convention, and I would really protest having it struck at this time. I think probably more than any other body—official body, anyway—which has ever met in Montana, we have stood up for the public's right to know. I think that there have been times when it's caused us a lot of discomfort, it's times when it's been frustrating, but I think that practically all of us agree that, all in all, it has been a very wise principle under which to operate. Now, so far as our present disagreements, as has been said before we came up with the wording which we presented to the Convention after a great deal of deliberating. And we came up with it satisfied—but satisfied because we had considered a lot of other possibilities of ways that we could really put the burden of stating privacy on the agency—in other words, some way whereby the agency would be the one which would have to prove the burden—or to bear the burden of proof so far as privacy goes. This is very difficult to do. As the amendment came onto the floor—or as the provision came onto the floor for debate, Section 9, we were considering at that time—a number of people had considered, and, in fact, Delegate Cate proposed, an amendment which would have provided—which would have included a "provided by law". I think it might have been given more serious consideration if the hour hadn't been so late and if—I think there was a bit of confusion as to whether the "provided by law" would refer to the right to know section or to the exception. I'm sure that Delegate Cate intended it to apply to the exception. And I—at that time I had spoken with quite a number of people from our committee who agreed that this wouldn't really make any difference. I'd also talked with a number of attorneys, and the attorneys' viewpoint was that it neither strengthened nor weakened it by putting this "as provided by law" in, which, you know, would have read, "except in such cases as provided by law". However, the press would have been satisfied with this. Now, this isn't entirely a press amendment, although at that time it was obvious to us that that was all that they seemed to want, was an assurance that the Legislature would outline those cases in which the demands of individual privacy were really clearly and—note "clearly"; "clearly" wasn't used in some of the comments this morning, and I think on this little sheet it's not included, but that's an oversight. The difficulty here is, as is—was noted by Mr. Dahood this morning, that there have been some court cases in which where you say "provided by law", the court refuses to rule on it. They say, "Well, the Legislature has already ruled". We also didn't want to get that kind of a situation because it's quite possible that a Legislature would, in times to come, determine that a—that privacy was of very—a broad construction and would apply to a lot of situations where the merits of public disclosure really would be greater. So for that reason we felt that it was really important to assure that we would have some court interpretation here. I think that this whole situation has—it's been regrettable. I'm not sure in my own mind that the amendment we have presented to you is really necessary, but I am sure that not only for the press but for a good many individuals who are concerned about what's going on in agencies, that this will truly clarify things for them. In other words, they can go to an agency and they can say, you know, "Show us the legislative restriction that prevents us from going to this meeting, or prevents us from seeing these documents in your files, or show us some court cases which prevent it". And if those cannot be pointed to, that means that they are entitled to go to that meeting and they are entitled to look at those documents. So probably for the operation of a right to know, these words are really helpful; and I do hope that you will vote against Mr. Davis' motion to delete and vote for our amendment to the article. Thank you.

CHAIRMAN GRAYBILL: Mr. Dahood.

DELEGATE DAHOOD: Mr. Chairman. On behalf of the committee. I want all the delegates to fully understand that the section, Right to know, was fully discussed and fully debated in our committee. We did not have any misapprehension about it, any doubt about its effect. I think any constitutional lawyer would look at Section 9 and put a grade of "A plus" upon it. It's stated in a broad principle form. It's the type of constitutional right that must necessarily be expressed in general terms; the specific guidelines that perhaps some of the critics would like cannot be stated within that particular section if it's to fall within the framework of a true constitutional principle. It's a principle that must endure for the decades and the ages. It still provides that the Legislature can set guidelines within this particular doctrine; the court shall interpret within this particular doctrine. That is not the problem. The problem is the one that's obvious to all of us; and I don't like to stand here and say that I have withdrawn from the committee's original position because of pressure, but I think I have a higher responsibility than my own personal satisfaction, perhaps, in prevailing in a situation such as this, where I know we are right; and that is to give this constitutional document, when it's finally executed by all of us, its best chance for passage when it's presented in the public form. I submit that this right is important, and I think we should consider it; but on the other hand, sometimes it's the hallmark of good judgment to compromise. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Arbanas.

DELEGATE ARBANAS: Mr. Chairman,

fellow delegates. I'd like to recall for you—first of all, I'm speaking against the move to delete. I recall for you when we first discussed the article that came from the Bill of Rights, the article said, very simply, "except in cases in which the demand of individual privacy exceeds the merits of public disclosure". We immediately saw that there was a problem about who was going to make that judgment, and so we added by amendment the word "clearly". And all that it seems to me that the people who are in that field are trying to tell us is that we need to define it just a little bit more. There is fear here of intimidation, power play. I personally don't feel it, I feel that I can listen to someone who is experienced as the result of an article and tells us reasonably what—how that should be further defined. So I think all we're doing is accepting a further delineation of that word "clearly", which we saw ourselves and we all accepted; it needed to be in there. So I don't think this action of accepting this new wording is at all contrary to our original move at all.

CHAIRMAN GRAYBILL: Mr. Romney.

DELEGATE ROMNEY: Mr. Chairman. It grieves me sore to be required to reject the motion of the gentleman from Beaverhead County, but I must. I do not think it's a good idea to remove this Right to know section, and I will briefly tell you why. Let us take a not-so-hypothetical case of an adult and three juveniles in the dead of night breaking into a service station and filching the bankroll; they're apprehended. The newspaper, seeking to carry the news, has a reporter call at the Clerk of the Court's office or Sheriff's office, secure information upon which to base an article. If you can get the name of the adult but you can't get the name of the juvenile and if you print the name of the juvenile you are apt to find yourself in the clink for contempt of court, you print the adult's name and not the juvenile's name, and there's a gross misapplication of justice. Newspapers are supposed to print all of the facts, not part of them. It's almost every week, and even in small operations like mine, something of this character is encountered; and I feel that the right to know must be protected. And I think that the Lee papers, in bringing this case to the public, were very remiss in not doing it earlier, but I think it was necessary even though it did cause this regrettable dislocation of our operation. I think personally that the original section was satisfactory, and I think that the present contemplated section is satisfactory, except the day might come when the Legislature or court might impose some restrictions that the press will not like nearly as much as they have right now. So they may inherit the whirlwind, but for the moment I must oppose Delegate Davis' motion.

CHAIRMAN GRAYBILL: The issue is on Mr. Davis' motion to delete Section 9 in its entirety.

Mr. Foster.

DELEGATE FOSTER: Mr. Chairman and fellow delegates. If the intent of this section was solely to benefit the press and news media of this state, I think I probably would be inclined to go along with Mr. Davis' motion; but the intent of this section is not solely designed for the press and news media. The press and the news media have power; they have money; they have ways of getting information; and quite frankly I'm not particularly concerned about the press and news media getting the news. They will get the news one way or another. That's their business; that's their talent; that's why they're there. But I'm concerned about the average citizen; the citizen that has some particular interest in a meeting of government, something that's particularly involved that affects him personally as a citizen. And the intent of this section was to broaden the protection of the average citizen, and, in fact, that's what the original section as written did. I would like to speak further on the—as relates to the amendment, but at this time I strongly protest the move of Delegate Davis to delete in its entirety this section. Thank you.

CHAIRMAN GRAYBILL: Mr. Blaylock.

DELEGATE BLAYLOCK: Mr. President [Chairman], I resist the motion to delete. I agree with Chairman Dahood insofar as we have worked on this; I think this is an important right to keep in our Constitution, in our Bill of Rights. I believe that the language, as I said before, is adequate and is good in our original adoption, but whichever way this Convention goes or decides to do, I would hope that we'd take one or the other, and not throw the whole thing out.

CHAIRMAN GRAYBILL: Very well. The motion is on Mr. Davis'—or the issue is on Mr. Davis' motion to delete in its entirety.

Mr. Martin, do you wish to speak before Mr. Davis closes?

DELEGATE MARTIN: If I may, please.

CHAIRMAN GRAYBILL: Very well.

DELEGATE MARTIN: Mr. President [Chairman]. It's odd to find oneself in a dilemma. I knew that when I voted, the first person who would be around to check on me would be Jack Schiltz; and he was there because of the fact that I had said that I would oppose reconsideration. I next got a note from Delegate Burkhardt that said, "The dinosaur was consistent, too." And then my seatmate ahead of me turned around and gave me a quotation from Emerson: "The love of consistency is the hobgoblin of little minds." (Laughter) So I am properly in my place; but I would say that my decision for, I hope, consistency with regard to reconsideration was to put an end to the repetitious diarrhea of words that we've been experiencing by reason of the fact that we have continuous reconsiderations. As a newspaper man for, as Delegate Davis says, half a century, I think that we do and should retain the right to know, and I think that it's been demonstrated over the last 15 or 16 years that we have developed a freer and freer press in Montana. And I think the interest that the press has and the Press Association has in this matter is primarily to insure the right of a free press and the protection of people. Mr. Dahood has over there, on his desk, a clipping from the *Billings Gazette* which shows a picture of a reporter being evicted from a County Commissioners' welfare meeting. The purpose of that meeting was a group of protesters seeking consideration of the food stamps; and those people, the County Commissioners, to evict the press, said it was a private meeting. And that is just a sample of some of the things that we find as we try to get news. The Bill of Rights does have a protection guaranteeing the freedom of the press. I think that the people who had this conviction, and maybe I'm not altogether in sympathy with some of the tactics that they had, I think that they were dedicated and sincere in their efforts to try to do what was best for the people. I think that's about all I say; I leave it to you. I have stated my position on reconsideration. That's my story.

CHAIRMAN GRAYBILL: Mr. Davis.

DELEGATE DAVIS: May I close, sir?

CHAIRMAN GRAYBILL: I think so.

DELEGATE DAVIS: Is that all right with everybody?

DELEGATES: Yes.

DELEGATE DAVIS: All right. I would like to reply to a couple of things if I can, Mr. President [Chairman]. The first thing, we all want to write something that's appealing to everyone in this Constitution. So now here's what our right to know is going to say: "No person shall be deprived of the right to examine documents or to observe the deliberations of all public bodies or agencies of state government and its subdivisions", now, "except in cases in which the Legislature, subject to court interpretation—" Now, that's the consitutional provision that I would defy Mrs. Eck to find in any constitution in the world. You are going to put it in, "subject to"—"except in cases which the Legislature, subject to court interpretation—" Now that might help the press, but as far as the poor little individual that's going to come, armed with his legislative and court interpretations, down to find out which documents he can examine, the whole thing has to be done by the Legislature. The first article was all right; it would still have to be interpreted anyway, but we're just—writing it in is a strict appeasement situation. I'm all for the right to know, but I'm all for the rights of the individual. In 20 years as County Attorney, there were many, many things that came up in my office that I'm sure it wasn't the best for everybody to know about at that time, until after there's some decision been made. And the press in our area was very discreetful and very understanding and didn't create any problem. But as far as writing in a constitutional platform like this, I think it's completely unreasonable. Now I don't think it's a question of whether you are going to alienate the press or not. The Legislature, you know—that same Legislature that last week you gave—took off all debt limits on and you took off all—gave complete power to tax, that's the same Legislature that's going to elect the legislators that are going to go up there to make the rules. They have an open meeting thing now, and those same voters that are very intelligent—elected you and I—are going to elect those legislators that are going up that are going to make this law. And whether you put this in the Constitution or whether you don't, it's left up to the Legislature. It's probably—if Mr. Dahood says this is going to be an "A plus" provision in the Constitution, it's going to be an "A plus" because there's no constitution in the world that has one like it and there never will be one that has one like it, and so it'll stand only because of its peculiarity in that regard. Now, the right to know is a very important right—it's a fundamental right and a constitutional right—but if we can't put it in any better than this, then we should leave it out entirely. There's no question but the press brought about this complete turnaround—this complete turnaround on our committee. I'm grateful to them; I think they should be thanked. I think they overreacted a little bit, but then they do on everything; I mean, that's to be expected. But they brought this about—and, of course, the press is a pressure group; they are lobbying for their own interest in this regard—and I think the thing should be completely removed and let them go and lobby the Legislature on how they want this done. Thank you.

CHAIRMAN GRAYBILL: Very well. We'll have a roll call vote. All in favor of deleting Section 9 in its entirety, vote Aye; all against it, vote No.

Has every delegate voted?

UNIDENTIFIED DELEGATES: No.

CHAIRMAN GRAYBILL: All right; hustle, fellows. What you're doing out in the hall while Mr. Davis is closing, I don't know. All those in favor of deleting Section 9, vote Aye; all those opposed, vote No.

Has every delegate voted?

(No response)

CHAIRMAN GRAYBILL: Any delegate want to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, take the vote.

Aasheim	Nay
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Nay
Arness	Aye
Aronow	Aye
Artz	Nay
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Nay
Belcher	Nay
Berg	Nay
Berthelson	Aye
Blaylock	Nay
Blend	Nay
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Absent
Burkhardt	Absent
Cain	Nay
Campbell	Nay
Cate	Nay
Champoux	Nay
Choate	Aye
Conover	Excused
Cross	Nay
Dahood	Nay
Davis	Aye
Delaney	Aye
Driscoll	Aye
Drum	Absent
Eck	Nay
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Aye
Foster	Nay
Furlong	Nay
Garlington	Nay
Graybill	Nay
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Nay
Hanson, R.	Nay
Harbaugh	Nay
Harlow	Nay
Harper	Nay
Harrington	Nay
Heliker	Nay
Holland	Absent
Jacobsen	Nay
James	Nay
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Nay
Leuthold	Nay
Loendorf	Nay
Lorello	Nay
Mahoney	Aye
Mansfield	Nay
Martin	Absent
McCarvel	Nay
McDonough	Nay
McKeon	Nay
McNeil	Nay
Melvin	Aye
Monroe	Aye
Murray	Nay
Noble	Nay
Nutting	Aye
Payne	Nay
Pemberton	Nay
Rebal	Aye

Reichert	Nay
Robinson	Nay
Roeder	Nay
Rollins	Nay
Romney	Nay
Rygg	Absent
Scanlin	Nay
Schiltz	Nay
Siderius	Nay
Simon	Aye
Skari	Nay
Sparks	Absent
Speer	Nay
Studer	Aye
Sullivan	Nay
Swanberg	Absent
Toole	Absent
Van Buskirk	Nay
Vermillion	Nay
Wagner	Nay
Ward	Aye
Warden	Excused
Wilson	Aye
Woodmansey	Nay

CHAIRMAN GRAYBILL: Will the clerk announce the ballot.

CLERK HANSON: Mr. Chairman, 33 delegates have voted Aye, 56 have voted No.

CHAIRMAN GRAYBILL: 56 have voted No, the motion fails. We're now discussing Mr. Dahood's motion to put in the new language: "the Legislature, subject to court interpretation, shall have determined that the"—to—in other words, we write in the extra exception.

Mr. Monroe.

DELEGATE MONROE: Mr. Chairman. I was one of the dissenters in our Bill of Rights Committee for the amendment to this particular section. A representative of the news media came before our committee, and we met with this person, and I felt that some of his reasoning was unfounded. And he didn't present, in my estimation, a very good argument for amending our present Section 9 on the Right to know. I think we've been subjected to some maybe undue pressure; and I think our original section as it was stated is quite adequate, and I don't want to weaken it by amending it with the present wording. So I oppose the amendment to Section 9, and I urge this body to retain the original Section 9 on the Right to know as adopted by this committee. Thank you.

CHAIRMAN GRAYBILL: Mr. Eskildsen.

DELEGATE ESKILDSEN: I don't really know why it has to be in there, "subject to court interpretation", because that's what they're going to do anyway, whether you have it in there or not. It's really very immaterial. But for the record, the Legislature is going to have to write some new codes, I'm sure, on this. And for the record, I'd like it very plain that when they're—when the Senate, if we do have one, or the Legislature as a body—that it be very plain that they have the right to—when they're confirming appointments by the Governor, that they have the right to hear the person being confirmed in privacy. I think that the various political parties, and particularly the Democratic and the Republican parties—the legislators that are elected—have the right to caucus privately; that the County Commissioners, in particular, have the right to interview welfare personnel privately. I think this is the right of the individual that's being interviewed. I went along with Mr. Davis on this to delete the whole thing, but I can see that if we are going to pass this amendment, that the Legislature will have a stack of codes very high; that the courts and case will be many. I think to delete the amendment would be the best thing right now. I think when it says: "except in cases in which demands of the individual privacy exceeds the merits of public disclosure", is good in just the way it is, and by adding the Legislature we only compound any good decisions we might have and that we will end up with many codes and many court decisions on each single item that they bring forward.

CHAIRMAN GRAYBILL: Mr. Furlong.

DELEGATE FURLONG: Mr. Chairman. I thought of the idea perhaps you ought to try to eliminate freedom of the press and worry about the people, but I resisted that temptation. This doesn't have a blessed thing to do with the right of the free press; it's already guaranteed and there's already a body of law having to do with the free press. This has to do with the right of the people, the little guy, to find out what's going on, and I resist the motion to be stampeded into changing this thing. I would rather stick with the original. I think it has nothing whatsoever to do with the press, but the people. The press will take care of itself; lets us take care of the people.

CHAIRMAN GRAYBILL: Mr. Mahoney.

DELEGATE MAHONEY: Mr. Chairman. I have listened with a great deal of interest to Delegate Eskildsen, and I think there's got to be a few more things in the record so that the Convention knows this; and I'm just putting this on the record. Impeachment proceedings; when they're deliberating, I think they have certainly got to be able to have secrecy. I think of investigating committees of the Legislature. I have seen times when people would not testify except behind—so that they know—we made testimony of it later. I'm just trying to get into the record that we think these provisions should remain inviolate for that, and this is what's bothering me more about the Legislature. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mrs. Erdmann.

DELEGATE ERDMANN: Mr. President [Chairman]. I rise, too, to oppose the amendment because I can think of many situations that would come up; for instance, in city hall in which the occasion is an emergency and it couldn't possibly fall under any particular vague guideline that the Legislature might have set up. And you can't call a special session of Legislature into session while they're waiting to get a decision. And I strongly oppose the amendment.

CHAIRMAN GRAYBILL: Mr. Foster.

DELEGATE FOSTER: Mr. Chairman and fellow delegates. First, I would like to speak to the problem that the committee brought before this body. I know that the members of the committee or—would have been much happier to have said, "Okay, we presented our article and the body has approved it and everything is well and good". But I think the course of this Convention will show that, in fact, most committees are subject to at least one reconsideration; and I submit that our committee is subject to at least one reconsideration, and this is it. Second, I'd like to point out that, in my opinion, with the information that we had available at the time we presented the article to this body, we did, in fact, present the best section on Right to know that we could present with the information we had available. But I think that you will all have to admit that there is additional information brought out in the course of debate when the article is presented for Committee of the Whole. There is additional information which comes to the attention of the committee after this has met the scrutiny of public opinion. And I think you will all have to recall that in many cases we have reacted to the scrutiny of public opinion, and this, in fact, is what we are doing in this case. Now, as for the section itself, it is the feeling of the committee, and it's my particular feeling, that we have in no way weakened the section as far as the right to know of the citizen; we have only attempted to clarify it. Now, granted, the Legislature is going to have to pass laws for any article in this Constitution, for the most part; and when we say "the Legislature", we are only drawing to the attention of anyone that would read this what is already the case. But after, that phrase is more than just subject to court interpretation—the phrase continues, it does not end at that point: "subject to court interpretation, shall have determined that the demands of individual privacy exceed the merits of public disclosure". And this latter phrase is which—is where the committee felt additional clarification was necessary, because we have, in fact, stated a principle which must be defined. It was the original feeling of the committee that this, in fact, meant that the Legislature would pass laws that would clarify it and the court would have interpretations of those laws which would clarify it. Some people interpreted this to mean that the individual who had the information could determine whether, in fact, it exceeded the merits of public disclosure. This is the sole reason for adding the additional language; to clarify the point that, in fact, the individual who has the information or is in charge of the meeting being held is not really capable of saying at that time and point, "This meeting is closed; this information is private on the basis of it exceeding the merits of public disclosure". So we felt, as a committee, that it was necessary to clarify this instance where an individual comes to a meeting and is told that, in fact, this meeting is closed. There was really no other reason for putting this wording in here, and I think that if you will read it carefully you will see that, in fact, all we have done is clarified it. And that was the intent of the committee, and I think that they have been correct in that intent. I strongly support the amendment. I feel that it will be the best of reasonable worlds, and I submit that it will still be an extremely strong—as strong as it was before—provision. Thank you, Mr. Chairman and fellow delegates.

CHAIRMAN GRAYBILL: Mr. Romney.

DELEGATE ROMNEY: May I direct two short inquiries to Delegate Dahood?

CHAIRMAN GRAYBILL: Mr. Dahood?

DELEGATE DAHOOD: I yield, Mr. Chairman.

DELEGATE ROMNEY: Mr. Dahood, in your opinion, would not the Legislature be likely to implement the Section 9 as it is in the book anyway, with legislation?

DELEGATE DAHOOD: Yes, I think that's correct.

DELEGATE ROMNEY: And the second question is, would not the court at some time or other cover the legislation that was so enacted?

DELEGATE DAHOOD: I don't think there's any question about it. I think that if we look into any Bill of Rights for any state or for the federal government, we are going to find hundreds and thousands of cases that have become necessary over a period of time to define precisely the guidelines for those particular rights.

DELEGATE ROMNEY: Now, the third question and final. The sentence which is placed in here as an amendment then is just spelling out what would be done anyway?

DELEGATE DAHOOD: That's my judgment.

DELEGATE ROMNEY: Thank you.

CHAIRMAN GRAYBILL: Mr. Arbanas.

DELEGATE ARBANAS: Mr. Chairman, fellow delegates. I think the wording proposed in the amendment is probably more important than we might think at first sight. I tried to work it out in my own mind what it might really mean, and I came up with an example, for what it's worth. Take the question of gambling; let's say we had a law that says there shall be no clear gambling. Now, what would that mean? That would mean only when it was out in the open, and it's quite different than saying there shall be no gambling except as allowed by the Legislature. It seems to me that that's kind of the same wording we have here, when you say there shall be no clearly difference between the two, that you'll leave it actually unsaid. And so this opens up all cases; in other words, we have the blanket opening of all cases except as restricted. And I think that's very important.

CHAIRMAN GRAYBILL: Mr. Davis.

DELEGATE DAVIS: I wish to speak in opposition to the amendment. And I think the thing that we're not addressing ourselves to is this change. The fundamental change gives the individual the right to privacy unless public disclosure compels it to or—unless—there has to be public disclosure. This means that the right to know exceeds the right to privacy unless you can go to the Legislature and get a bill passed or a court—and a court interpretation. And so you've turned the thing completely around. In other words, you've given the people who want the right to know to say, "We've got the right to know unless you've got legislation on the books". And if they don't meet or you don't get your bill passed for 2 years—and there are many, many things that come up in public bodies. And I think it's ill-conceived, and I think it's ill-considered, and I don't—and illegally written. And I think if we're going to have one on there the same at all, let's take the one that was thought out the first time. It's not that serious with the press. They're going to have the right to know just like they always have, whether there was anything in the Constitution or not, and the Legislature is going to have to implement it, so I oppose the amendment.

CHAIRMAN GRAYBILL: Mr. Barnard.

DELEGATE BARNARD: Mr. President [Chairman]. I also rise to oppose the amendment. I worked for about 6 years in areas where this question of the right of privacy was quite a subject. I saw so many, many cases where, if the newspaper had got hold of some of the material that I had, that the many, many individuals who were completely innocent of any wrongdoing whatever would have had their names spread all over the front page of the papers, and perhaps their reputation ruined for life. So I certainly hope that this doesn't pass.

CHAIRMAN GRAYBILL: Mrs. Mansfield.

DELEGATE MANSFIELD: Mr. Chairman. As a member of the committee, I agreed with this the other day; but as more people talked about it, it has caused a question in my mind; and I might have to use a woman's prerogative and vote against this amendment. Thank you.

CHAIRMAN GRAYBILL: Mrs. Bowman.

DELEGATE BOWMAN: Mr. Chairman. I would like to speak in opposition to the amendment for two reasons. It's unclear in my mind as who wrote this amendment. I do not—I'm not sure that it was the committee who wrote it. I really don't think it makes any difference, when you get right down to it, whether we have the amendment in the Constitution or whether we accept the original committee report. I think ultimately, of course, the court is going to interpret what we're going to be able to do. Primarily though, I object to the way this whole thing was handled. I got a letter—I'm sure other people from Yellowstone County got a letter, from the publisher of the *Billings Gazette*, who until now has been, I felt, very strongly in support of what we were doing here. I didn't appreciate the way he handled it. I would agree with Mr. Foster that we have reacted to public opinion before, but we have not acquiesced to public opinion before, and it occurs to me that this is what we're just about to do. Lots of public pressure has been brought on lots of issues and we've discussed them, but we really have never acquiesced; and I am afraid that if we accept this amendment, while it really won't, I don't think, change anything, we will have admitted that we have acquiesced to the public pressure of the newspaper.

CHAIRMAN GRAYBILL: Mr. Dahood.

DELEGATE DAHOOD: Mr. Chairman, may I close?

CHAIRMAN GRAYBILL: No, before you close there are some other speakers.
Mr. Berg.

DELEGATE BERG: Mr. Chairman. I want it very clearly understood that I want to see a right to know written into this Constitution. I think it is an absolute right of every citizen to know what's going on in the government that he elects. But I rise in opposition to this proposed amendment. I think it is just so much gobbledygook. I can't really believe that it's been written by anyone who understands the nature and function of government. Let me read it to you and explain my reasons. It says: "the Legislature, subject to court interpretation, shall have determined". Now, to start off with, the Legislature enacts laws, or the Legislature repeals laws, or the Legislature appropriates money. In all of my experience, I have never yet seen the words, "the Legislature determines". I really don't know what that means, and I don't think anyone here in this body can clearly, explicitly explain it. We should write this Right to know; if it has exceptions, we should put them in clearly. Now, I also am a great advocate of the right to privacy and the right of dignity in an individual, and I don't want to see this Convention do anything that is going to interfere with those two rights. When we talk about the right to know as compared to the right of individual privacy, we are talking, to a certain extent, about two conflicting theories; and basically, that's what our problem is here today. I submit to you that this proposed language does not cure anything. What does it really mean? It says this, that if there is a conflict, if a problem arises, the Legislature is going to determine, apparently, the individual problems, perhaps even as they arise. That's not an unreasonable interpretation of the language as it is contained under this proposed amendment. Further, it says that even though the Legislature makes that determination, if it should do it—and I submit to you it does not determine things, it enacts, it repeals, it appropriates; that's all it does—nevertheless it's going to be subject to court interpretation. How in the world is this going to be a workable provision at all? Now, I submit to you that if you turn this down, as I think you should—this particular amendment—I submit that really what should be said here is: "The Legislature shall enact laws to protect individual privacy and dignity". Sure—not that the courts—of course, the courts may—a problem may arise, an individual may have a problem, two individuals may disagree, the courts are the forum for the decision on that matter, not the Legislature. For these reasons, I hope you will turn this particular hodgepodge of an amendment down.

CHAIRMAN GRAYBILL: Mr. Aasheim, do you want to take the Chair?

(Delegate Aasheim takes the Chair)

CHAIRMAN AASHEIM: Mr. Graybill.

DELEGATE GRAYBILL: Mr. Chairman, members of the body. I rise with some hesitation to oppose the Chairman of the committee on this matter, but I do so partly because I notice that he rises with some reluctance himself to change this language. I've listened carefully to debate and I agree with many of the people that have spoken, but there are some things that I think should be pointed out. First of all, a Bill of Rights is the document of the Constitutional Convention and of the Constitution, and that's what we're on, Bill of Rights. It is our statement of the rights of the people, as Mr. Furlong says, and this language says that we'll give it to the Legislature. Now, I don't—I'm not against giving lots of things to the Legislature, and we've done our share and I think it's been fine, but we should not push on the Legislature the duty of determining what the rights of the people are in this state. Their right to know is our job to protect, and we're pushing it on the

Legislature with this language. Now then, when we've done that, I'm concerned because I understand the newspaper's lawyer had something to do with this. When we've done that, what have we done here? Suppose the Legislature says nothing's secret, is the newspaper going to be happy? Yes, but what about the people? Suppose the Legislature repeals its present statute some week or some year, and they say everything's secret. Have we protected the rights of the press and of the people to know? We're giving up the right of the people to have us determine this matter right here. Now, secondly, it says "subject to court interpretation", so obviously the argument that the courts are going to have to look at it is out the window, because the courts are supposed to look at it under the new language as well as under the old. But, Mr. Foster, I'd like to take a shot at getting you back in the fold, because I think you made an interesting argument, and one which—I'd like to even protect the press, if I may, from itself. You know, before the courts interpret this language, somebody else is going to interpret it. What's going to happen is the Legislature's going to pass a statute of some kind, that's going to list all of the incidences that it thinks should be secret. Now if you know the Legislature as I do, they're not going to do that in one line; there's going to be a lot of different things that are secret. They're going to have the same trouble we're going to have, or we're having. They're going to put a lot of words in that statute. And when somebody comes to the agency and wants to know—let's say it's the reporter, or let's say it's a person—when they come to the agency and want to know, or when they try to get into the agency meeting, who's the first person that's going to interpret the Legislature's language? It ain't going to be the courts, it's going to be the agency. So the more language you give that agency to work with, the less to know there's going to be left, because they'll be able to interpret it right out of the window. So if the press really wants to lock this state up, just let them have the Legislature pass a nice, long-as-your-arm statute about what's secret; and everything will be secret by the time the agency, or the agency head, or the agency lawyer gets his hands on it and advises whether the people can come to the meeting or whether the papers can be shown to the press. I don't think the press has yet thought this thing through. The press has to go and demand what it wants, and if an agency makes an unreasonable determination, the press has to take them to court and whip them; that's the only way this thing's going to work. But the way the committee originally drew it, at least the little guy's got something to say to that agency man when he goes to the door; he's got the Constitution. But he hasn't got anything when we get through amending it. So I think, Mr. Foster, you could do the press a big favor, and I'm sure we could all help Mr. Furlong protect the people, if they'll just let us write the Constitution and they'll write the articles.

CHAIRMAN AASHEIM: Any further discussion? (No response)

Mr. Dahood, do you want to close?

DELEGATE DAHOOD: I do, Mr. Chairman, and I close. Thank you.

CHAIRMAN AASHEIM: What's the question? The question then arises on the motion of Mr. Dahood to insert the following language: "the Legislature, subject to court interpretation, shall have determined that the", in the body of the original Right to know, Section 9. Any question about the meaning of the amendment? If not, those who are in favor will vote Aye; those who are opposed will vote No.

Mrs. Babcock.

DELEGATE BABCOCK: (Inaudible)—in favor of inserting the language, the amendment, you vote Aye—or NO?

CHAIRMAN AASHEIM: Of Mr. Dahood, yes. If you are in favor of that language, you vote Aye; if you oppose this amendment, you vote No. And you—are you clear? Has everyone voted?

(No response)

CHAIRMAN AASHEIM: Does anyone want to change his vote?

Mr. Romney, for what purpose do you arise?

DELEGATE ROMNEY: Mr. Chairman, I want to explain my vote. I do have a personal interest, but I think that the public interest is paramount, and I am voting.

CHAIRMAN AASHEIM: The clerk will tally the vote.

Aasheim	Nay
Anderson, J.	Nay
Anderson, O.	Nay
Arbanas	Aye
Arness	Nay
Aronow	Nay
Artz	Aye
Ask	Nay
Babcock	Nay

Barnard	Nay
Bates	Nay
Belcher	Nay
Berg	Nay
Berthelson	Nay
Blaylock	Nay
Blend	Nay
Bowman	Nay
Brazier	Nay
Brown	Nay
Bugbee	Absent
Burkhardt	Absent
Cain	Nay
Campbell	Nay
Cate	Aye
Champoux	Absent
Choate	Nay
Conover	Excused
Cross	Nay
Dahood	Aye
Davis	Nay
Delaney	Nay
Driscoll	Aye
Drum	Absent
Eck	Aye
Erdmann	Nay
Eskildsen	Nay
Etchart	Nay
Felt	Nay
Foster	Aye
Furlong	Nay
Garlington	Aye
Graybill	Nay
Gysler	Nay
Habedank	Nay
Hanson, R.S.	Aye
Hanson, R.	Nay
Harbaugh	Nay
Harlow	Nay
Harper	Aye
Harrington	Nay
Heliker	Nay
Holland	Absent
Jacobsen	Nay
James	Nay
Johnson	Nay
Joyce	Nay
Kamhoot	Absent
Kelleher	Nay
Leuthold	Nay
Loendorf	Nay
Lorello	Aye
Mahoney	Aye
Mansfield	Nay
Martin	Absent
McCarvel	Nay
McDonough	Aye
McKeon	Nay
McNeil	Nay
Melvin	Nay
Monroe	Nay
Murray	Aye
Noble	Nay
Nutting	Nay
Payne	Nay
Pemberton	Nay
Rebal	Nay
Reichert	Nay
Robinson	Nay
Roeder	Nay
Rollins	Nay
Romney	Nay
Rygg	Nay
Scanlin	Aye
Schiltz	Nay
Siderius	Nay
Simon	Nay
Skari	Nay
Sparks	Absent
Speer	Nay
Studer	Nay
Sullivan	Aye
Swanberg	Absent
Toole	Absent
Van Buskirk	Nay
Vermillion	Aye
Wagner	Nay
Ward	Nay
Warden	Excused
Wilson	Aye
Woodmansey	Nay

CLERK HANSON: Mr. Chairman. 18 delegates have voted Aye, 70 have voted No.

CHAIRMAN AASHEIM: 18 having voted Aye, 70 voting No, the amendment is lost.

(Delegate Graybill assumes the Chair)

CHAIRMAN GRAYBILL: Very well. Mr. Schiltz, I think you should re-move Section 9 as is. And we'll—

DELEGATE SCHILTZ: I did move it and it was adopted, Mr. Chairman.

CHAIRMAN GRAYBILL: So I guess we don't need to do anything.

DELEGATE SCHILTZ: No.

CHAIRMAN GRAYBILL: Mr. Berg, for

what purpose do you rise?

DELEGATE BERG: I did have a proposed amendment in another portion that I wanted to have considered.

CHAIRMAN GRAYBILL: Well, we're not through with Style and Drafting on this at all. I'm just trying to finish up Section 9.

DELEGATE BERG: You have—may I propose the amendment? It eliminates two words.

CHAIRMAN GRAYBILL: In Section 9?

DELEGATE BERG: In Section 9.

CHAIRMAN GRAYBILL: You don't have it up here.

DELEGATE BERG: I do not have it there.

CHAIRMAN GRAYBILL: Very well, while Section 9 is open then, Mr. Berg, what's your proposal?

DELEGATE BERG: I move to delete the word "bodies" and the word "or", following the word "public" and before the word "agency".
Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Berg.

DELEGATE BERG: I have been concerned as a lawyer about the use of the word "public bodies", particularly as it relates to the verb—or the noun really—"deliberations" or "deliberate". When I think of a public body deliberating, I think first of a jury; that's a deliberative public body. I think not only of an ordinary jury sitting in a civil or criminal case, I think also of grand juries, of which we have had some operating in both Gallatin and Park Counties. Those deliberations ought not to be open and available for observation by any member of the public or any participant in the litigation or any person who's under suspect before the grand jury. For that reason I think we should strike the words "bodies or", because I think with that terminology in there it is clearly broad enough to include the deliberations of a public body; to wit: a jury. Similarly, and of course my mind does run, I admit, along judicial lines, but take the deliberations of the Supreme Court. That's a public body. Is it to be understood that Mr. Davis, or Mr. Dahood, or myself, if we're on opposite sides of the case, having finished the argument, may then go into chambers with the court and observe their deliberations in the judgment of the case we just argued? I submit to you, under the language as it is, those things would be possible. I don't think you intend it. If you strike the words "bodies or", you leave it to the agencies of state government. Now I want to see all agencies, in particular, opened up to the public. I want their documents examined; I want their deliberations open. I am particularly interested in the operations of the city councils and boards of county commissioners, as well as all other agencies and commissions and forms of government. I want their deliberations open; I want their documents available for inspection. But I do not think that the term "public bodies" adds anything, and it may create problems which we do not otherwise envisage. I therefore submit for your consideration the deletion of those two words "bodies or".

CHAIRMAN GRAYBILL: Mr. Harper.

DELEGATE HARPER: Mr. Chairman. I have a hard time thinking of the Constitutional Convention as an agency, or the Legislature as an agency, and I—my mind is not fast enough, maybe, to turn to some others. I don't know what other word to use for groups like this, other than public bodies. It seems to me like—I tried to listen carefully as he went through the list, maybe not in every case, but in many of the things Mr. Berg described, the phrase that takes exception, that says "clearly exceeds the merits of public disclosure", certainly would be applied to a grand jury. I just can't picture this not applying there. I think I would oppose the amendment.

CHAIRMAN GRAYBILL: Now, the Chair would like to know how many people expect to speak on this. If we're going to debate it, we're going to recess; and I'm perfectly happy that you do so.

All right, Mr. Dahood, we'll take one more shot at it.

DELEGATE DAHOOD: Well, Mr. Chairman. I think probably I should rise in view of the fact that some question has been raised. If the language of Delegate Berg can be accepted, then of course I think his concern is one that should concern us all. And I think the interpretation that he has given could possibly be laid against this section, but I am very reluctant to rise in opposition to Delegate Berg on this issue because I'm certainly in accord with everything that he says, except I'm not satisfied in my mind and judgment that a court could conceivably give that interpretation to "bodies". We are referring there to public bodies; perhaps city councils, perhaps some bureaucratic groups or some bureau that may have been established perhaps for some particular special public purpose that may not fall within the term of "agencies". But then again, "agencies", I suppose, is a generic term. We are involved, I suppose, in semantics here. I think our comments clearly indicate that we are not trying to upset any traditional rule of procedure with respect to anything within the judiciary. I think our comments certainly indicate we're not trying to upset any particular privacy that's required in the matters referred to by Delegate Mahoney. I just do not think that that problem would arise. And with those comments in the record and in the journal, I would stand with the present language.

CHAIRMAN GRAYBILL: The Chair sees others that want to debate it. I think we'll debate it after lunch; we're all pretty hungry.

Mr. Eskildsen. For what purpose do you rise, Mrs. Eck?

DELEGATE ECK: I have an announcement.

CHAIRMAN GRAYBILL: Pardon?

DELEGATE ECK: I have an announcement.

CHAIRMAN GRAYBILL: I'll come to that.

DELEGATE ECK: Oh, okay.

DELEGATE ESKILDSEN: Mr. Chairman. I move that the Committee of the Whole stand in recess until 2 o'clock this day.

CHAIRMAN GRAYBILL: All right. We're going to recess until 2 o'clock if you vote for it, but I must announce that there will be a Style and Drafting meeting during lunch.

And Mrs. Eck, do you want to make your announcement, or do you want me to?

DELEGATE ECK: Why don't you.

CHAIRMAN GRAYBILL: There is to be an Administration Committee meeting in the Rules Committee room at a quarter of 2:00; that'll be 15 minutes before we come in. Very well, all in favor of recessing until 2 o'clock, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

(No response)

CHAIRMAN GRAYBILL: So ordered.

(Convention recessed at 12:46 p.m.—reconvened at 2:14 p.m.)

CHAIRMAN GRAYBILL: The committee will be in order. Members of the committee, before lunch we were discussing Section 9 still. And the situation was that Mr. Berg had an amendment to Section 9, as it's shown on page 11 of the Style and Drafting report, that we were working in. His motion was on line 5 to delete the words "bodies of"—line 4?—"bodies" or—all right— "bodies or"—excuse me, line 5, so that it would read: "or to observe the deliberations of all public agencies" instead of "public bodies or agencies". And it was Mr. Wilson's turn to talk.

Mr. Wilson.

DELEGATE WILSON: Mr. President [Chairman]. Would Mr. Berg yield to a question?

CHAIRMAN GRAYBILL: Mr. Berg?

DELEGATE BERG: I yield.

DELEGATE WILSON: Mr. Berg, as this provision is now written, would this pertain to all Police department files, Sheriff's office files, Attorney General's files, County Attorney's files, in respect to investigative matters?

DELEGATE BERG: Well, I wouldn't want to be the one to pass judgment on that, but I would call your attention to the last portion which reads that: "unless the demands of individual privacy clearly exceed the merits of public disclosure". And I would suspect that there will be problems arise in the interpretation of it that only the courts will decide. I could not give you a firm answer, yes or no.

DELEGATE WILSON: Mr. President [Chairman]. Will Mr. Berg yield to another question?

CHAIRMAN GRAYBILL: Mr. Berg?

DELEGATE BERG: I yield.

DELEGATE WILSON: Who, in your opinion, would determine whether this would be public or not?

DELEGATE BERG: I anticipate that there would be court cases develop and, out of that, decisions rendered as in any other statutory or constitutional interpretation problem.

DELEGATE WILSON: Mr. Berg yield to another question?

CHAIRMAN GRAYBILL: Mr. Berg?

DELEGATE BERG: I yield.

DELEGATE WILSON: Would you foresee a lot of litigation, separate litigations on these particular issues?

DELEGATE BERG: No, I foresee that there will be litigation. I foresee that there will be interpretations, and that final decisions will be achieved through the courts.

DELEGATE WILSON: Thank you, Mr. Berg.

CHAIRMAN GRAYBILL: Is there other discussion? Very well, members of the committee, you have before you the motion of Mr. Berg that we delete the words "bodies or", so that Section 9 reads: "or to observe the deliberations of all public agencies" instead of "public bodies or agencies". Roll call?

DELEGATE BERG: May I close now?

CHAIRMAN GRAYBILL: Yes, close.

DELEGATE BERG: I only want to remark that during the noon recess I asked our research analyst to look up definitions of "public bodies". She was unable to find any court decisions actually interpreting the word "public bodies". So I assume that we are now inserting, if we leave it in the Constitution, words that do not have any interpretation and, to this date, have no fixed meaning. I would like to remark, for the purpose of the record, that my purpose in asking to delete the word "bodies or" is to eliminate the potential interpretation that it might include juries, grand juries, Supreme Court deliberations.

CHAIRMAN GRAYBILL: Very well, the issue is on Mr. Berg's motion to delete the words "bodies or". So many as shall be in favor of that motion, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: So many as shall be opposed, say No.

DELEGATES: No.

CHAIRMAN GRAYBILL: The Noes have it, and the motion fails. No, I think that was pretty clear. Now we're still debating Section 9; is there any further discussion?

Mr. Schiltz, is it your opinion that we don't need to readopt Section 9?

DELEGATE SCHILTZ: Mr. Graybill, it's much stronger than an opinion; I did it and it has been adopted.

CHAIRMAN GRAYBILL: So that if we're all through reconsidering it, we just leave it alone?

DELEGATE SCHILTZ: Right.

CHAIRMAN GRAYBILL: Mr. Harper.

DELEGATE HARPER: Is Mr. Scanlin's motion to amend Section 9 going to come before us?

CHAIRMAN GRAYBILL: Well, Mr. Scanlin, what do you want to do, withdraw it or leave it?

DELEGATE SCANLIN: Mr. Chairman, I wish to withdraw it.

CHAIRMAN GRAYBILL: It's withdrawn. Very well, unless the Chair hears differently, we will consider the matter of reconsideration of Section 9 closed. Mr. Clerk, will you read Section 10.

CLERK HANSON: "Section 10, Right of privacy." Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: I move that when this committee does arise and report, after having had under consideration Section 10, Style and Drafting Report Number 8, it recommend the same be adopted.

Mr. Chairman, there are no changes.

CHAIRMAN GRAYBILL: Any discussion? As many as shall be in favor of Section 10, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No. (No response)

CHAIRMAN GRAYBILL: It's adopted. Section 11.

CLERK HANSON: "Section 11, Search and seizure." Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does rise and report, after having had under consideration Section 11, Style and Drafting Report Number 8, it recommend the same be adopted.

Mr. Chairman, we made one or two minor style changes, nothing significant.

CHAIRMAN GRAYBILL: Any discussion of Section 11? All in favor of Section 11, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

CHAIRMAN GRAYBILL: The Ayes have it, and so ordered—or it's adopted. Section 12.

CLERK HANSON: "Section 12, Right to bear arms." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman. I move when this committee does rise and report, after having had under consideration Section 12, Style and Drafting Report Number 8, it recommend the same be adopted.

Mr. Chairman, there are no changes in Section 12.

CHAIRMAN GRAYBILL: Section 12, is there any discussion? So many as shall be in favor of Section 12, say Aye.

CHAIRMAN GRAYBILL: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

CHAIRMAN GRAYBILL: The Ayes have it, and it's adopted. Section 13.

CLERK HANSON: "Section 13, Right of suffrage." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman. I move when this Committee does rise and report, after having had under consideration Section 13, Style and Drafting Report Number 8, it recommend the same be adopted.

Mr. Chairman, we changed the title of "Right to suffrage" to "Right of suffrage" to confirm with what was said on line 28. And besides, that sounds better.

CHAIRMAN GRAYBILL: Any discussion of Section 13? All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

CHAIRMAN GRAYBILL: The Ayes have it, and it's adopted. Section 14.

CLERK HANSON: "Section 14, Adult rights." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman. I move when this committee does rise and report, after having had under consideration Section 14, Style and Drafting Report Number 8, it recommend the same be adopted.

Mr. Chairman, we changed the word "eighteen" to figures "18" for drafting purposes. And then we struck "or older", because anybody 18 years of age is an adult and we didn't think that was necessary.

CHAIRMAN GRAYBILL: It looks to me like you put "or older" in.

DELEGATE SCHILTZ: Or, I mean—that's what I mean to say; we put "or older" in, because otherwise it sounded as though we only had 18-year-olds who were adults. I'm sorry.

CHAIRMAN GRAYBILL: We've got to watch you, don't we, Mr. Schiltz?

DELEGATE SCHILTZ: This is a bad day, all the way around.

CHAIRMAN GRAYBILL: All right. Is there any discussion on Section 14? All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

CHAIRMAN GRAYBILL: It's adopted. Section 15.

CLERK HANSON: "Section 15, Rights of persons not adults." Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman. I move when this committee does arise and report, after having had under consideration Section 15, Style and Drafting Report Number 8, it recommend the same be adopted.

Mr. Chairman, we made this conform with Section 14 by style changes.

CHAIRMAN GRAYBILL: Any discussion of Section 15? All in favor of Section 15, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted. Section 16.

CLERK HANSON: "Section 16, The administration of justice." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman. I move when this committee does rise and report, after having had under consideration Section 16, Style and Drafting Report Number 8, it recommend the same be adopted.

Mr. Chairman, one or two minor style changes, nothing else.

CHAIRMAN GRAYBILL: Section 16. All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted. Section 17.

CLERK HANSON: "Section 17, Due process of law." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman. I move when this committee does rise and report, after having had under consideration Section 17, Style and Drafting Report Number 8, it recommend the same be adopted.

We had to restrain the committee quite a bit, Mr. Chairman, to leave this one alone, but it was just like the U.S. Constitution, so we decided to leave it.

CHAIRMAN GRAYBILL: Is there any discussion? Is that all right, Mr. Davis? (Laughter) All in favor of Section 17, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?
(No response)

CHAIRMAN GRAYBILL: It's adopted. Section 18.

CLERK HANSON: "Section 18, State subject to suit." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman. I move when this committee does arise and report, after having had under consideration Section 18, Style and Drafting Report Number 8, it recommend the same be adopted.

Mr. Chairman, we made some changes here—we changed "Nonimmunity from" to "State subject to suit". Nonimmunity sounds like two negatives, which we didn't like, and I think this is better. We used the words "local governmental entities" to conform to the language we used in the Revenue and Finance Article, which will be used throughout the Constitution. We made a substantive change on line 27; where it had "June first", we put in "July first", for the reason that most insurance is going to be purchased probably after the first of July and not—or effective the middle of the year and also statutes become effective on the first of July unless some earlier date is specified. And we checked this with the committee, and the committee had no problem.

CHAIRMAN GRAYBILL: Mr. Dahood.

DELEGATE DAHOOD: Mr. Chairman. The committee does agree, and I am compelled to concede to Style and Drafting that they have improved the language.

CHAIRMAN GRAYBILL: Any discussion? All in favor of Section 18, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?
(No response)

CHAIRMAN GRAYBILL: It's adopted. 19.

CLERK HANSON: "Section 19, Habeas corpus." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman. I move when this committee does rise and report, after having had under consideration Section 19, Style and Drafting Report Number 8, it recommend the same be adopted.

Mr. Chairman, no changes.

CHAIRMAN GRAYBILL: Mr. Johnson, oh—All in favor of Section 19, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?
(No response)

CHAIRMAN GRAYBILL: It's adopted. 20.

CLERK HANSON: "Section 20, Initiation of proceedings." Mr. Chairman. Containing two subsections.

DELEGATE SCHILTZ: Mr. Chairman. I move when this committee does rise and report, after having had under consideration Section 2, sub. 1, Style and Drafting Report Number 8, it recommend the same be adopted.

Mr. Chairman, we made style changes; nothing very significant.

CHAIRMAN GRAYBILL: Any discussion? All in favor of Section 20, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?
(No response)

CHAIRMAN GRAYBILL: It's adopted.

DELEGATE SCHILTZ: Mr. Chairman. I move when this committee does arise and report, after having had under consideration Section 20, sub. 2, Style and Drafting Report Number 8, it recommend the same be adopted.

Mr. Chairman, again style changes; nothing significant.

CHAIRMAN GRAYBILL: Now, are you on 21 or 20?

DELEGATE SCHILTZ: I am on 20, sub. 2.

CHAIRMAN GRAYBILL: Well, we take these whole things at a time, Mr. Schiltz, don't we?

DELEGATE SCHILTZ: No.

CHAIRMAN GRAYBILL: Oh, we don't, I beg your pardon. That's on the other half of the melon. Okay, 20, sub. 2. Is there any objection?

DELEGATE SCHILTZ: I'm watching you pretty close, Mr. Chairman. (Laughter)

CHAIRMAN GRAYBILL: All in favor of 20, sub. 2, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?
(No response)

CHAIRMAN GRAYBILL: So ordered—it's adopted. A fellow could get confused at this game if you played it long enough. Section 21.

CLERK HANSON: "Section 21, Bail." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman. I move when this committee does arise and report, after having had under consideration Section 21, Style and Drafting Report Number 8, it recommend the same be adopted.

Mr. Chairman, no change.

CHAIRMAN GRAYBILL: 21? All in favor of 21, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?
(No response)

CHAIRMAN GRAYBILL: It's adopted. 22.

CLERK HANSON: "Section 22, Excessive sanctions." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman. I move when this committee does arise and report, after having had under consideration Section 22, Style and Drafting Report Number 8, it recommend the same be adopted.

Mr. Chairman, no changes; it's the old section from the Constitution.

CHAIRMAN GRAYBILL: All in favor of Section 22, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted. 23.

CLERK HANSON: "Section 23, Detention." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman. I move when this committee does arise and report, after having had under consideration Section 23, Style and Drafting Report Number 8, it recommend the same be adopted.

Mr. Chairman, we only made a change on line 26 to be consistent—"provided by law" as opposed to "prescribed by law"—and that's all.

CHAIRMAN GRAYBILL: All in favor of Section 23, say Aye.

Oh, Mr. Joyce, were you up?

DELEGATE JOYCE: Yes, Mr. Chairman. I'm going to move at this time to suspend the rules.

CHAIRMAN GRAYBILL: On 23?

DELEGATE JOYCE: On Section 23. And if I am successful, I would propose to strike the last sentence, because as I understand it, the United States Supreme Court has held that a deposition may not be received as evidence at the trial if the witness is dead or absent from the state; and it just seems to me that we really shouldn't pass something that's contrary to the federal Constitution.

CHAIRMAN GRAYBILL: Very well, the Chair understands Mr. Joyce's motion to be to suspend the rules to—so that we could reconsider Section 23. And he has also further said that if that happened, he would make a motion to reconsider and would be interested in the last sentence; but notice that the whole section will be open. Is there any discussion of the motion to suspend the rules? All in favor of suspending the rules on Section 23, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

CHAIRMAN GRAYBILL: The Chair is in doubt. All in favor, vote Aye; and all opposed, vote No. Every delegate voted?

UNIDENTIFIED DELEGATE: No.

CHAIRMAN GRAYBILL: Does any delegate want to change his vote? Very well, 64 having voted in favor and 16 against, the motion to suspend the rules is adopted.

Now Mr. Joyce, do you want to make a motion to reconsider?

DELEGATE JOYCE: Mr. Chairman. I move to reconsider the section—the action of the Convention on Section 23, and if that motion passes I would have a motion to delete the last sentence.

CHAIRMAN GRAYBILL: Is there discussion on the motion to reconsider? All in favor of the motion to reconsider, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

CHAIRMAN GRAYBILL: It's adopted. Now, Mr. Joyce, do you want to state your—Mr. Joyce, you did vote on the prevailing side when we adopted this, didn't you? To the best of your recollection? (Laughter)

DELEGATE JOYCE: Let me say I think so.

CHAIRMAN GRAYBILL: Very well, what's your motion?

DELEGATE JOYCE: Mr. Chairman. I move to delete the last sentence of Section 23, on line 29, at page 13—that's where I'm reading—the following words, beginning with "Any": "Any deposition authorized by this section may be received as evidence on the trial if the witness shall be dead or absent from the state."

CHAIRMAN GRAYBILL: Mr. Joyce. Your motion is to delete the last sentence in its entirety, is that correct?

DELEGATE JOYCE: Yes.

CHAIRMAN GRAYBILL: Very well. You may have a motion deleting the last sentence beginning with the word "Any" in line 29: "Any deposition authorized by this section may be received as evidence on the trial if the witness shall be dead or absent from the state."

Mr. Joyce.

DELEGATE JOYCE: Mr. Chairman. It's my—as I understand it, the United States Supreme Court has held that you cannot use a deposition in a criminal trial against a defendant in that, if the person—the witness is dead, he must—his evidence is gone forever. And if he's absent from the state, you can't use the deposition against him because the federal Constitution, which guarantees that a person will be confronted by—has the right to be confronted by his accusers—that on the trial of the case, the jury has the right to see the accuser to test his credibility and witness on the stand and if he isn't there the evidence just can't be admissible. And any constitution or statutes that authorize it violate the federal Constitution. And since the Supreme Court has so held, it seems to me that adopting a Constitution thereafter, that we really shouldn't fly in the face of the United States Supreme Court.

CHAIRMAN GRAYBILL: Mr. Dahood.

DELEGATE DAHOOD: Mr. Chairman. There is some question as to whether or not this particular provision would conflict with that particular decision, because there are instances where the testimony that is so preserved may be in favor of defendant. But in any event, the Criminal Code of the State of Montana, which was recently enacted, does provide for the particular procedure involved in these matters. And because of that concern that's been expressed by Delegate Joyce and several other lawyers who are members of the Convention, the committee would have no objection to deleting that sentence. It does not take away from the substance of that particular Section 23.

CHAIRMAN GRAYBILL: So many as shall be in favor of Mr. Joyce's motion to delete the last sentence of Section 23, please say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

CHAIRMAN GRAYBILL: It's deleted. Are there other amendments to Section 23?
Mr. Schiltz.

DELEGATE SCHILTZ: I move when this committee does arise and report, after having had under consideration Section 23, Style and Drafting Report Number 8, it recommend the same be adopted as amended.

CHAIRMAN GRAYBILL: The motion is to adopt Section 23 as amended. Is there discussion? All in favor of adopting Section 23 as amended, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted as amended. Section 24.

CLERK HANSON: "Section 24, Rights of accused." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman. I move that when this committee does rise and report, after having had under consideration Section 24, Style and Drafting Report Number 8, it recommend the same be adopted.

Mr. Chairman, there are no changes.

CHAIRMAN GRAYBILL: Section 24? All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, Nay.
(No response)

CHAIRMAN GRAYBILL: It's adopted. Section 25.

CLERK HANSON: "Section 25, Self-incrimination and double jeopardy." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman. I move when this committee does arise and report, after having had under consideration Section 25, Style and Drafting Report Number 8, it recommend the same be adopted.

Mr. Chairman, we made style changes; nothing significant. We said "No person shall be again put in jeopardy for the same offense", as opposed to "twice put in jeopardy".

CHAIRMAN GRAYBILL: Section 25. Any discussion? All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted. Section 26.

CLERK HANSON: "Section 26, Trial by jury." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman. I move when this committee does arise and report, after having had under consideration Section 26, Style and Drafting Report Number 8, it recommend the same be adopted.

Mr. Chairman, we made style changes, with no substantive changes.

CHAIRMAN GRAYBILL: Section 26. All in favor of Section 26, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, say No.

(No response)

CHAIRMAN GRAYBILL: Section 26 is adopted. Section 27.

CLERK HANSON: "Section 27, Imprisonment for debt." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Section 27, Style and Drafting Report Number 8, it recommend the same be adopted.

Mr. Chairman, minor style change.

CHAIRMAN GRAYBILL: Section 27. Is there any discussion? All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: All opposed, say No.

(No response)

CHAIRMAN GRAYBILL: It's adopted. Section 28.

CLERK HANSON: "Section 28, Rights of the convicted." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Section 28, Style and Drafting Report Number 8, it recommend the same be adopted.

Mr. Chairman, in this case we struck out "and full rights shall be automatically restored", and reinserted, on lines 10 and 11, "shall restore all civil and political rights". Now I understand that Mr. Campbell has some problem with that, but in defense of the committee, if you'll look at—well, you don't have it, but on page 41 of the committee report, it was their express intent that any such person should be entitled to the restoration of all civil and political rights; so we used those words on the theory that "full rights" really had no legal significance and wasn't anything measurable or definable. So we used two terms that were definable.

CHAIRMAN GRAYBILL: Mr. Campbell.

DELEGATE CAMPBELL: I would rise to amend the changes made by Style and Drafting. I'm afraid in this case, just as in Section 6, they inadvertently changed the substantive nature of the section, and that is in this way. We intended full rights be restored as in the report we had on page 41. We felt that when a person has paid the debt and there's no longer state supervision, all of the rights should be restored. We said specifically in that writeup that he has the opportunity to become a full member of the community and it's required that he be restored to the same rights, privileges and immunities as other citizens. That's why we put in "full rights", to cover these other areas also. Now, in changing this, Style and Drafting excluded our "full rights" and put "civil and political". I feel, in talking to members of the committee, that this would not cover such things as occupational rights, and certainly it was not our intent to exclude those. We feel—I feel that the Supreme Court could very likely say that an occupational right is not a civil right, it's a privilege, and as a result would not give full meaning to our phrase "full rights". And for this reason, I would accept the changes they made with the addition "and privileges" at the end, so there would be no question that this is to be part of the section. This was the original intent, and to prevent any substantive change I would recommend this be added to their report.

CHAIRMAN GRAYBILL: Now, the Chair does not understand that you've made a motion yet, Mr. Campbell.

DELEGATE CAMPBELL: I make a motion that the words "and privileges" be added after "rights". I will withdraw to our Chairman, Mr. Dahood.

CHAIRMAN GRAYBILL: Mr. Dahood.

DELEGATE DAHOOD: Mr. Chairman. Delegate Campbell speaks on behalf of the committee. We think he is correct, and I would like to move—and this, as I understand it, would be a substitute motion—that the original language of Section 28 be adopted by Style and Drafting and inserted within this particular article. Since it is our considered judgment that there is some question as to whether or not certain privileges are excluded by the adoption of the language submitted to this committee, I so move, Mr. Chairman.

CHAIRMAN GRAYBILL: All right. The Chair doesn't understand it to be substitute, it's just your motion to restore. I didn't accept Mr. Campbell's motion.

DELEGATE DAHOOD: Yes, it is our motion.

CHAIRMAN GRAYBILL: Right. All right, Mr. Dahood has made a motion that the original language passed by the Convention—or by the Committee of the Whole be restored and that Style and Drafting use it in place of what they've put in here. Is there discussion?

Mr. Burkhart.

DELEGATE BURKHARDT: Mr. Chairman, I wonder if Bob Campbell intended to insert "and privileges", or whether that's simply to be noted in the journal.

CHAIRMAN GRAYBILL: It is not inserted in the original language. And Mr. Campbell has referred to it as having come from the comment, but it is not part of the original language. Does everybody—I think it's pretty easy to make out what the original language was there.

Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman. I would like to urge on Mr. Dahood that for the sake of Style and Drafting, not mine but his, that he accept our change and put in his "full rights" down there at the end, because as written it says, "full right shall be automatically restored". We have a real problem, and I think Mr. Dahood will recognize it just as soon as he starts to—parts the sentence: "restored" by whom?—and "automatically". Both those words bugged all of the committee and I just think are bad draftsmanship, and I think you would agree.

CHAIRMAN GRAYBILL: Mr. Dahood.

DELEGATE DAHOOD: Mr. Chairman, I don't see where the language of Style and Drafting is any more self-executing than the language that our committee submitted to the Committee of the Whole and which was adopted. I'm certainly quite willing to accept any suggestion that's going to improve the effect of the language, but unfortunately, at this moment I'm unable to see that that particular benefit is to be gained by accepting the language of Style and Drafting. They indicate in the language that they have suggested that termination of state supervision shall restore all civil and political rights. We say in the original language, "full rights shall be automatically restored upon termination of state supervision". And I must confess, if there is a difference I fail to perceive it at this time.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: So far as we're concerned, the reading would be that the termination—the act of termination, whenever that happens, constitutes a restoration of all civil and political rights—or full rights if you—if that's the wording you want. Whereas, as it's written, "full rights shall be"—and that indicates to us that somebody shall do it. And then "automatically"—I don't like the word "automatically" because it doesn't seem to me "automatically" has any place in the Bill of Rights. "Full rights shall be restored", that means to me that somebody must do it. I realize you have "upon termination", but it still indicates to me that somebody must take some action, and I don't think that's what you want.

CHAIRMAN GRAYBILL: Mr. Dahood.

DELEGATE DAHOOD: Mr. Chairman. Will Mr. Schiltz yield to a question?

DELEGATE SCHILTZ: Yes.

DELEGATE DAHOOD: Mr. Schiltz. It states in the original language that full rights shall be automatically restored upon termination of state supervision. It clearly indicates when that particular event shall happen. Perhaps this language would be an improvement, and perhaps be acceptable to your committee, to read, "full rights are restored upon termination of state supervision." Would that be more satisfactory to the committee?

DELEGATE SCHILTZ: That would be better. Or if you used "by" instead of "upon", it seems to me it would be better. Do you see what I am getting at? I don't—we're really debate—I don't think it's all that important.

DELEGATE DAHOOD: We have no objection to substituting the word "by" for "upon".

DELEGATE SCHILTZ: All right.

DELEGATE DAHOOD: Perhaps Mr. Schiltz now will read that section with that particular change. And if Mr. Schiltz thinks the word "automatically" should be stricken, I think it's superfluous; it serves no particularly useful purpose. But on the other hand, sometimes the use of words, even though perhaps not necessary from the standpoint of strict English composition, do emphasize a particular point or a particular right, and that was the reason for using the word "automatically".

CHAIRMAN GRAYBILL: Mr. Dahood and Mr. Schiltz. The Chair has listened carefully to you. I understand, Mr. Dahood, that you might withdraw your motion and make a motion that the sentence read, "and full rights shall be"—striking the word "automatically"—"restored"—and then change—and strike "upon" and put in the word "by"—"termination of state supervision for any offense against the state".

DELEGATE DAHOOD: That is correct, Mr. Chairman, and thank you for your assistance.

CHAIRMAN GRAYBILL: Very well, Mr. Dahood has changed his original motion, and it now is to change the language so that it reads: "Rights of the convicted. Laws for the punishment of crime shall be founded on the principles of prevention and reformation". —can we leave that period there, Mr. Dahood? And strike the "and" and say: "Full rights shall be restored by termination of state supervision for any offense against the state".

DELEGATE DAHOOD: That is correct, except there was one suggested change made. In line 23, instead of using the words "shall be", use the—in place thereof "are", so that it will read: "Full rights are restored by termination of state supervision".

CHAIRMAN GRAYBILL: All right, "Full rights are—" All right, now, ladies and gentlemen, the first sentence will remain as it appears in the Style and Drafting report. The second sentence will read, if you want to interlineate: "Full rights are restored by"—small "t"—"termination of state supervision for any offense against the state"—period—striking the rest of the underlined material—Now, as I understand it, that's agreeable with the committee. Is that agreeable with Style and Drafting? Are there others who care to discuss this matter? Very well, all in favor of Section 28—let's say, all in favor of the changes that have been proposed by Mr. Dahood, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No. (No response)

CHAIRMAN GRAYBILL: All right. Now, Mr. Schiltz, restate the section as amended.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Section 28, Style and Drafting Report Number 8, it recommend the same be adopted as amended.

CHAIRMAN GRAYBILL: All those in favor of adopting Section 28 as amended, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No. (No response)

CHAIRMAN GRAYBILL: So ordered; it's adopted. Section 29.

CLERK HANSON: "Section 29. Eminent domain." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I recommend—I move when this committee does arise and report, after having had under consideration Section 29, Style and Drafting Report Number 8, it recommend the same be adopted.

Mr. Chairman, a slight change in style on line 18; nothing else.

CHAIRMAN GRAYBILL: All in favor of Section 29, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed? (No response)

CHAIRMAN GRAYBILL: It's adopted. Section 30.

CLERK HANSON: "Section 30. Treason and descent of estates." Mr. Chairman.

DELEGATE SCHILTZ: I move when this committee does arise and report, after having had under consideration Section 30, Style and Drafting Report Number 8, it recommend the same be adopted.

Mr. Chairman, a minor change to "Legislature" on line 25.

CHAIRMAN GRAYBILL: All in favor of Section 30, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed? (No response)

CHAIRMAN GRAYBILL: It's adopted. Section 31.

CLERK HANSON: "Section 31. Ex post facto, obligation of contracts and irrevocable privileges." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman. I move when this committee does arise and report, after having had under consideration Section 31, Style and Drafting Report Number 8, it recommend the same be adopted.

Mr. Chairman, no changes except for a comma, I guess, on line 29 and "Legislature" on line 4 of page 16.

CHAIRMAN GRAYBILL: All in favor of Section 31, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?
(No response)

CHAIRMAN GRAYBILL: It's adopted. Section 32.

CLERK HANSON: "Section 32, Civilian control of military." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman. I move when this committee does arise and report, after having had under consideration Section 32, Style and Drafting Report Number 8, it recommend the same be adopted.

Mr. Chairman, minor style change on line 9.

CHAIRMAN GRAYBILL: All in favor of Section 32, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted. Section 33.

CLERK HANSON: "Section 33, Importation of armed persons." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman. I move when this committee does arise and report, after having had under consideration Section 33, Style and Drafting Report Number 8, it recommend the same be adopted.

Mr. Chairman, again, minor changes for "Legislature" on lines 14 and 15.

CHAIRMAN GRAYBILL: Section 33. All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted. Section 34.

CLERK HANSON: "Section 34, Unenumerated rights." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman. I move when this committee does arise and report, after having had under consideration Section 34, Style and Drafting Report Number 8, it recommend the same be adopted.

Mr. Chairman, no changes.

CHAIRMAN GRAYBILL: All in favor of Section 34, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?
(No response)

CHAIRMAN GRAYBILL: It's adopted. Section 35.

CLERK HANSON: "Section 35, Servicemen, servicewomen and veterans." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman. I move when this committee does arise and report, after having had under consideration Section 35, Style and Drafting Report Number 8, it recommend the same be adopted.

Mr. Chairman, minor style changes for—on lines 21 and 23.

CHAIRMAN GRAYBILL: All in favor of Section 35, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: No.

CHAIRMAN GRAYBILL: Section 35 is adopted.

DELEGATE SCHILTZ: Mr. Chairman. I should note in this—in connection with this particular article, that the death penalty provision is not reported here; it goes on the ballot.

CHAIRMAN GRAYBILL: In other words, there is that item to go on the ballot that's not in the book here.

DELEGATE SCHILTZ: That's right.

CHAIRMAN GRAYBILL: That'll be part

of the ballot. All right. Ladies and gentlemen of the committee, you have adopted the 35 articles, the Bill of Rights.

Mr. Murray, do we need to rise and report to refer this to—

Mr. Eskildsen, will you rise and report?

DELEGATE ESKILDSEN: Mr. Chairman. I move we rise and final report.

CHAIRMAN GRAYBILL: The motion is to rise and report on the Style and Drafting proposal on the Bill of Rights. All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No. (No response)

CHAIRMAN GRAYBILL: So ordered. Mr. Clerk, will you read the report.

CLERK HANSON: "March 16th, 1972. Mr. President. We, your Committee of the Whole, having had under consideration Report Number 8 of the Committee on Style, Drafting of the Bill of Rights recommend as follows: that the committee rise and finally report on the Style and Drafting proposal on Bill of Rights. Signed: Leo Graybill, Chairman."

DELEGATE ESKILDSEN: Mr. President.

PRESIDENT GRAYBILL: Mr. Eskildsen.

DELEGATE ESKILDSEN: I move the adoption of the Committee of the Whole report and that Bill of Rights Proposal Number 8 be referred to Order of Business Number 5.

PRESIDENT GRAYBILL: The motion is that the Committee report be adopted and referred to Order of Business Number 5.

Mr. Schiltz, for what purpose do you rise?

DELEGATE SCHILTZ: I was going to suggest that you go to Style and Drafting for engrossing of the amendments and then back to Order of Business Number 5.

PRESIDENT GRAYBILL: Well, if we do that, can you put it straight to Order of Business Number 5?

DELEGATE SCHILTZ: Right.

PRESIDENT GRAYBILL: Very well. We'll send it to Style and Drafting for making the changes, and then we'll send it straight to Order of Business Number 5, without going back to Order of Business Number 10. All in favor of the motion, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No. (No response)

PRESIDENT GRAYBILL: So ordered.

DELEGATE ESKILDSEN: Mr. President.

PRESIDENT GRAYBILL: Mr. Eskildsen.

DELEGATE ESKILDSEN: I move the committee resolve itself into the Committee of the Whole for the purpose of handling business under General Orders.

PRESIDENT GRAYBILL: The motion is to resolve ourselves back into a Committee of the Whole. All in favor, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No. (No response)

PRESIDENT GRAYBILL: So ordered.

CHAIRMAN GRAYBILL: Mr. Clerk, before you read, just a minute, here. Mr. Murray, are you ready? Members of the committee, we're going to let Mr. Murray take the start of Local Government this afternoon. So Mr. Murray, welcome.

(Committee of the Whole Chairmanship assumed by Mr. Murray.) (Long pause in proceedings)

CHAIRMAN MURRAY: The committee will be in order. I understand that there have been distributed to the desk of the delegates a 2-page report from the Local Government Committee, and on the second page there are some amendments. And if you have these before you—which I assume that you do; I see many of you holding them—we will consider that these amendments are committee amendments, and unless there is objection, they will be deemed to be such and will be included in the committee's report as we proceed. The clerk will read the history and title of the General Government Proposal.

CLERK HANSON: "Mr. Chairman. Montana Constitutional Convention, 1971-72. Local Government Committee Proposal Number 11. Introduced February 19th, 1972. Oscar L. Anderson, Chairman; Virginia H. Blend, Vice-chairman. Majority proposal. Be it proposed by the Local Government Committee: that there be a new article on Local Government to read as follows: Article, Local Government. Section 1."

CHAIRMAN MURRAY: At this time we'll call on Mr. Anderson. No, before we read Section 1, Mr. Clerk, we'll have the committee Chairman, Mr. Anderson, give an introduction.

DELEGATE O. ANDERSON: Mr. Chairman, fellow delegates. You have just been distributed a—two folders here; if you'll turn to the second one, there's a correction to make. We are not going to use the sub. 1 and sub. 2 and sub. 3. You will take your report, on either page 4, and insert where it says "the following", between lines 26 and 27—or if you are using the section where comments are, it would be on page 23, between lines 7 and 8. Strike that—after the—following the 2 in parentheses: "If the Legislature does not provide such procedures by July 1st, 1975, they may be established by election either—colon—(a) initiated by petition in the local government unit or combination of units—semicolon—or (b) called by the governing body of the local government unit or a combination of units". And then please disregard all of this below that; where it says Section 5, below "self-government charters", disregard that completely. You all got that straight, we'll start.

CHAIRMAN MURRAY: You may proceed, Mr. Anderson, with the introduction.

DELEGATE O. ANDERSON: Fellow delegates. The Local Government Committee submits herewith its unanimous proposal for a new Local Government Article. The proposal is intended to replace in their entirety the present Article XVI, Counties, Municipal Corporations and Offices; and Article XIX, Section 6, dealing with county offices. The committee was in general agreement that a new Local Government Article should provide flexibility, but was divided on how best to attain this goal. This proposal tends to work with the existing local government structure of cities, towns and counties and seeks to achieve improvement by encouraging experimentation in local government powers and form. Strong minority support originally was voiced in the committee for a proposal by Delegate Franklin Arness to replace the existing city, town, county and school district structure with a new one-level district structure. Eventually each of the 11 committee members voted for the adoption of this proposal. In signing this report, however, a committee member does not necessarily endorse each and every statement in it. This proposal was adopted after consideration was given to nearly 3,000 citizen suggestions and 19 delegate proposals. We wish to express our thanks to the citizens for their interest and to the delegates who submitted the proposals, the intent of which influenced the final proposal to a great degree. The committee utilized the services of the following people in addition to its members: Mrs. William L. Romine, committee secretary; Mrs. Pat—Miss Pat Chvatal, a Carroll College senior, intern; and Jerry Halloron, committee research analyst. I wish at this time to give special recognition and thanks to these people. And a little later Mrs. Blend will give further thanks to Jerry for his work. This committee believes this proposal provides a much improved constitutional framework for local government in Montana and urges its adoption by the Constitutional Convention. At this time—I'm going to stop here and say no more, but Virginia Blend will continue.

CHAIRMAN MURRAY: Mrs. Blend.

DELEGATE BLEND: Mr. Chairman, fellow delegates. Flexibility and accountability best describe the goals embodied in the proposal of the Local Government Article. The proposal aims at creating the widest possible array of local government forms so that local structure may be tailored to local needs. It provides for new self-government powers that may be exercised on the local level and gives a constitutional boost to local efforts to eliminate costly and inefficient duplication of services and functions. At the same time, the proposal requires accountability from local government units. Each new form of government authorized under the proposal would require the approval of local voters before it could be implemented. Local government could exercise self-government powers only with the approval of local residents. County boundaries could be exchanged only if a majority of the affected residents could be—pardon me, only if a majority of the affected residents agree. The people would be guaranteed the powers of initiative, referendum, and recall on the local level. Although the proposal would not force Montanans to change their local governments, it would force them to closely examine the local units, with an eye toward improving them. This examination is provided for in the unique voter review of local government, which at the least should pay huge dividends in terms of increased voter awareness in and concern for local government. The length of the present local government provisions is more than cut in half by this proposal. Statutory material concerning indebtedness of new counties, county commissioner districts, and county officer location is deleted. The form of county government now in effect in 55 counties is mentioned, but only as one of what will hopefully be several optional forms of county government. But the real news in the proposal is its incorporation of new devices to make local governments more responsive and more responsible. Totally new provisions are added allowing local citizens to design their own form of local government, to increase local authority and responsibility, and to the—end needless duplication of local services. The Local Government Committee did not set out to replace the thinking of 1889 with that of 1972; rather, it attempted to replace the thinking of 1889 with a broad framework that would allow implementation of the thinking of 1990, 2010 and 2072, as well as that of 1972. The committee believes this proposal creates that framework. Now, please don't grab your pens and start writing amendments to each of the sections as we cover them until you have cross-referenced each, as we have indicated in the Local Government Committee material distributed to you earlier this day. We have been told that our article is one which has an invisible continuity and clarity of purpose when time is taken to read and study it. We have written it as a whole piece of cloth. The success of local government under this Constitution depends on this completeness. We call your attention that Sections 1 and 2 are basic to all local government units and to the article. Remember Section 3 should be related to Sections 5 and 6, which are for the hale and the hearty. Section 4 is common to Sections 3, 5, 6 and 7; and Section 11, the final one, is what ties up the package for all. It is important for you to know, we think, the complement of our committee which has brought expertise—it included political science majors; experience from former county attorneys, county commissioners, mayors, aldermen and women; and considerable knowledge on the part of public-spirited, civic-minded members who have actively participated in local government to improve it under the present Constitution, and to have known the frustrations. Our article has the full support of every local government organization and citizen groups involved. We have not had objections from any citizen or individual city or county official. We were delighted this morning to receive, from the National Municipal League, a letter from Mr. Cassella, who spoke to us a number of weeks ago, and I quote you in part from his letter: "I have read with great interest and care the Local Government Committee proposal. I can say that it would appear that your committee has developed a most imaginative and forward-looking Local Government Article, which certainly provides a most appropriate framework for achieving the goals of flexibility and accountability which your committee has endorsed. I certainly agree with these goals." As you all know, there is very little research about local government, much less success stories. We have been privileged to have made available to us the very fine text on Montana local government prepared by our research analyst, Jerry Holloron. We feel his contribution, Local Government Number 16, without which we would have been seriously handicapped, will be the basis upon which future authors will rely upon to update this subject. It has the greatest possibilities for Montana schools and hopefully will be the bible for local government units in making the transition into better government. As we in this Convention have researched the constitutions of other states, we think there will be requests for it as other states reach revision in the future. In closing, we ask you to bear in mind that we have reviewed six proposals containing complete government—Local Government Articles. After review, we chose two. These were prepared by Delegate Tom Ask and Delegate Lucile Speer, both members of our committee, which we felt had the broadest face from which to accomplish our goal. We have conceived our goal to be to provide options of self-determination by local government, whether in a town of 25 people or a city of 80,000, whether in a county of under 500 or a county of eighty or ninety thousand. We feel we have accomplished this. True democracy and true freedom only exist when we have the freedom of choice. We received a total of 19 delegate proposals; and we refer you to pages 34 and 35 of our report to learn our disposition of them. This article will be presented by the members of our committee. Thank you, Mr. Chairman.

CHAIRMAN MURRAY: Thank you, Mrs. Blend. The clerk will read Section 1.

CLERK HANSON: "Section 1. Definition.

The term "Local government units" includes but is not limited to, counties and incorporated cities and towns. Other local government units may be established by law." Mr. Chairman, Section 1.

CHAIRMAN MURRAY: Mr. Rollins.

DELEGATE ROLLINS: Mr. Chairman, I move that when this committee does rise and report, after having had under consideration Section 1 of Proposal Number 11, it recommends that the same be adopted.
Mr. Chairman.

CHAIRMAN MURRAY: Mr. Rollins.

DELEGATE ROLLINS: The present Montana Constitution creates considerable confusion in the scatter-gun use of terminology concerning local government. Such imprecise constitutional terminology has resulted in confusion and court litigation. In an attempt to avoid this problem, Section 1 adopts local government units as a generic term and specifies that counties and incorporated cities and towns fall within its meaning. However, the section specifically authorizes the Legislature to create other local government units, thus providing freedom for the Legislature to meet future needs that cannot be met by the traditional city or county structures. Certain special districts, for example, might be appropriately designed—designated as "local government units" by the Legislature. The committee believes that Section 1 will discourage litigation and avoid confusion concerning the rest of the Local Government Article; it also recommends that terminology corresponding to that used in this section be incorporated in other articles of the new Constitution when local government units are discussed. Thank you, Mr. Chairman.

CHAIRMAN MURRAY: Discussion?
Mr. Gysler.

DELEGATE GYSLER: Will Mr. Rollins yield to a question?

CHAIRMAN MURRAY: Mr. Rollins, do you yield?

DELEGATE ROLLINS: I yield.

DELEGATE GYSLER: Just a point of information. Do you consider a school board a local government unit?

DELEGATE ROLLINS: No, because that's covered under the Education provision.

DELEGATE GYSLER: In other words, then—one more question, please.

CHAIRMAN MURRAY: Another question, do you yield, Mr. Rollins?

DELEGATE ROLLINS: I yield.

DELEGATE GYSLER: You do not consider any of the school organizations a local government unit?

DELEGATE ROLLINS: No, sir.

DELEGATE GYSLER: Thank you.

CHAIRMAN MURRAY: Mr. Nutting.

DELEGATE NUTTING: Would Mr. Rollins yield to a question?

DELEGATE ROLLINS: I yield.

DELEGATE NUTTING: "—but is not limited to", do you consider that that takes care of say, fire districts, cemetery districts, and so forth; that is considered—

DELEGATE ROLLINS: Special districts of many kinds.

DELEGATE NUTTING: Thank you.

CHAIRMAN MURRAY: The question now arises, on the motion of Mr. Rollins that when this committee does rise and report after having had under consideration Section 1 of the Local Government Proposal Number 11, that it recommend the same be adopted. As many as are in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN MURRAY: Those opposed, say No.
(No response)

CHAIRMAN MURRAY: The Ayes have it, and so ordered. The clerk will read Section 2.

CLERK HANSON: "Section 2, Counties. The counties of the State of Montana as they exist at the adoption of this Constitution are the counties of the state. County boundaries shall not be changed or county seats transferred until approved by a majority of those voting on the question in each county affected." Mr. Chairman, Section 2.

CHAIRMAN MURRAY: Mr. Anderson.

DELEGATE O. ANDERSON: Mr. Chairman. I move that when this committee does rise and report, after having had under consideration Section 2 of Proposal Number 11, it recommends that the same be adopted.

Section 2, admittedly controversial, provides that the present county boundaries and county seats will be retained unless changed by a majority of those voting on the question in each county affected. County A could be consolidated with County B only if a majority of those voting on the question in each county approves. Thus, a large county could not swallow a small county without the latter's permission. The proposed section combines Sections 1, 2 and 8 of Article XVI of the present Constitution. Other than deletion of statutory material, the basic intent of those sections is retained, with one exception. The present language, Sections 2 and 8, requires approval of a majority of the qualified electors of the county affected before a county boundary can be changed or a county seat transferred; the proposed Section 2 would require approval of a majority of those voting on the question. This difference can be quickly seen. Under the present provision, for example, if a county to be consolidated had 5,000 qualified electors but only 3,000 of them vote on the consolidation question, a majority of the 5,000, or 2,501, rather than a majority of the 3,000, or 1,501, apparently would have to favor consolidation to meet the constitutional restriction. Under the proposed language, on the other hand, a majority of those voting—or 1,501—would be required. In substituting the less stringent but more common majority requirement, the committee endorses the reasoning that persons who do not vote on an issue should not be able to thwart the will of those who do; let the proponents and opponents of county consolidation or county seat transfer go to the polls, and let the majority rule. County boundaries: calls for county consolidation, both nationwide and statewide, have gone unanswered despite their frequency during the 20th Century. Indeed, the number of counties nationwide has remained almost constant in the last 40 years, despite frequent complaints that many counties lack the population and economic base to be viable units of local government. If judged by national standards, certainly many of Montana's 56 counties are too sparsely populated to meet the tests of viability. But who should be the final judge of whether a county is too large or too small, and of whether it should be consolidated with another? The Local Government Committee believes this choice must be left to the voters of the counties affected. Therefore, Section 2 allows changes in county boundaries only if approved by a majority of those voting on the question in each county affected. The committee considered leaving the matter of county boundaries entirely to the Legislature, but decided that the authority would be more appropriately lodged in the people of the affected counties. After all, if sparsely populated counties are as inefficient and uneconomical as some of their critics claim, certainly the residents of those counties soon will be clamoring for county consolidation because of high tax bills and insufficient local government services. It should be stressed that the proposed Section 2 does not prevent county consolidation. It simply requires that any such boundary change must be approved by the persons most directly affected, the residents of the counties concerned. It should also be noted that the proposed Local Government Article allows ways short of total consolidation in which counties with dwindling population and tax base can be aided. Under Sections 3 and 5, a wide range of structural options can be provided, including one or more directed toward those counties that do not need the full range of county offices and services. Indeed, Petroleum County, the county with the smallest population in the state, already makes successful use of a county manager form of government. In addition, the broad language of Section 7 should encourage counties to band together and to join with cities and towns within their boundaries to provide more efficient, economical government services. Provisions in the present Constitution, Article XVI, Section 3, concerning the division of debt when new counties are formed were deleted from this proposal on the basis that they can be provided by legislation if they are ever needed. County seats: constitutional provisions protecting county seats from being changed by legislative action are common among the 50 states. Section 2 simply substitutes a concise statement of the protection now found in Article XVI, Section 2, and Article V, Section 26. The present Constitution's requirement that county offices must be kept at the county seat, Article XIX, Section 6, was deleted from the proposal. Such a requirement might prevent counties from sharing officers and setting up branch county offices. To the extent that such a requirement is needed, it can be provided for by law. Now, I'd like to close with this one note. Almost every state has almost these same provisions about county seats and county boundaries. We looked in the North Dakota one; they took three sections and 120 words. We assigned the task of cutting this down to Jerry Holloron. He did this in 50 words and said it better. And I say that anything—this proves that anything they can do in North Dakota, we can do it better here.

CHAIRMAN MURRAY: Discussion on Section 2? The question now arises on the motion of Mr. Anderson that when this committee does rise and report, after having had under consideration Committee Proposal Number 11, Section 2, of Local Government, that the same be adopted. As many are in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN MURRAY: Those opposed, say Nay.

DELEGATES: No.

CHAIRMAN MURRAY: The Ayes have it, and so ordered. Section 3.

CLERK HANSON: "Section 3, Forms of government. The Legislature shall provide by law for the government of local government units and for procedures of incorporating, classifying, merging, consolidating and dissolving such units and of altering their boundaries. The Legislature shall provide by law for optional or alternative forms of government for each unit or combination of units to enable a unit of combination of units to adopt, amend or abandon an optional or alternative form by a majority of those voting on the question. One optional form of county government includes but is not limited to the election of three county commissioners, a clerk and recorder, a clerk of district court, a county attorney, a sheriff, a treasurer, a surveyor, a county superintendent of schools, an assessor, a coroner, and a public administrator, whose terms, qualifications, duties and compensation shall be prescribed by law. The Board of County Commissioners may consolidate two or more offices. The Board of County Commissioners of two or more counties may provide for a joint office and for election of one official to perform the duties of that office in the respective counties." Mr. Chairman, Section 3.

CHAIRMAN MURRAY: Mr. Ask.

DELEGATE ASK: Mr. Chairman. I move that when this committee does rise and report, after having under consideration Section 3, Proposal Number 11, it recommends that the same be adopted.

Mr. Chairman.

CHAIRMAN MURRAY: Mr. Ask.

DELEGATE ASK: I hope this section gets by as easy as the other two. (Laughter) I'm going to cover the comments in two separate stages here, because there are two separate paragraphs and basically two different ideas. If you'll follow me on page 13 of the comments, I will read that. Section 3—that's the first paragraph, now—aims at allowing the Legislature to provide the broadest possible range of forms of local government for counties, cities, towns and other local government units, including consolidated forms. Virtually every national and state authority on local government urges such flexibility, and even our old Section 7 of the Constitution of Article XVI, gives the Legislature broad powers to provide any plan, kind, manner or form of local government. The intent of Section 3 is to offer just as broad freedom to the Legislature to provide various forms of local government as is allowed under the present Section 7. Because of that intent, the committee considered retaining the present language of Section 7. This idea eventually was rejected because the present wording is unclear and confusing. It is hoped that Section 3's straightforward direction to the Legislature to provide optional and alternative forms of government will result in a greatly expanded offering to the local government units in Montana. The possibilities that could be provided under Section 3 are great. At present only three forms of city government—and that would be—the mayor council, would be one; the commission form; and the commission-manager—two forms of county government, the traditional form and then the county manager form, and one general form of city-county consolidation are authorized by statute in Montana at the present time. Other states offer considerably more alternatives; New Jersey, for example, employs what has been called the cafeteria-style form of local government options, under which a local unit may choose different alternatives within a form of government offered by the Legislature. This Section 3 was drafted to allow such a flexible cafeteria style in Montana, too. Thus, the Legislature could offer the mayor-council form of government but leave to the locality the question of whether to elect or appoint a city treasurer, a police judge, or other city officers. In this regard, it should be noted that Section 3 specifically directs the Legislature to provide forms of government which can be amended as well as adopted and abandoned by a vote of the local residents. Section 3 provides the Legislature with authority to meet the rapidly shifting governmental needs of vastly different units of local government. For example, the Legislature, under Section 3, could provide streamlined forms of county government specifically—or specially suited for areas in which the population is dwindling, and a variety of forms of consolidated government for areas where virtually all of a county's population is urban. Section 3 clearly states that any optional or alternative plan will go into effect on a local level only after it has been approved by the voters. The Legislature is directed to offer choices of government structure for local government units. The voters of these units have the final control over what type of structure they select. So you will note the main point of this first section, then, is that it's going to—up to the local residents if they want to change their present form of government or adopt a new one. It's up to them; they have to vote on it. Now, we haven't outlined any specific forms, and this will be up to the Legislature, but I thought maybe I could give you ideas that the Legislature possibly could adopt for various optional or alternative forms of government. You have the city manager form, which is in effect, I think, in Bozeman and Helena; this is one form we have on the books that could stay as that form. Then we have the city commission form; and you elect a commission, and each commissioner also heads one of the major departments of the city; this could be another form. And there's the mayor-council; this seems to be the most popular city government—there's 124 cities and towns in Montana have this form; this could remain as one of the various officials in the government; you could variations of this mayor-council or commissioner form. It's unlimited as to what you could do with the various officials in the government; you could have an appointed executive or an elected—like you have elected mayor—or you could have all different types. As to counties, there are only three forms now. Fifty-five of the counties have the traditional county form of the three commissioners and the various officials that are elected. And one county, Petroleum, has a county manager form, which has the board of—three county commissioners are elected and they appoint a manager, and the only other official in the county that's elected is the county attorney. And then you could also have a county executive form of government, which some other states have and which we don't have now. And you could have an elected commission which serves as a legislative body and elect an executive, or whatever you wanted to call him, or you could make him appointed or elected. Then you could have what other officers you wanted in the county to be elective or appointive; it would be up to the people. And you could have a county administrator form of government, which California has; and this includes appointment by commissioners of an administrative officer who lacks the power of a county manager; and this plan is kind of a compromise between the no executive arrangement, and the traditional in other counties, and the strong manager system. And neither one of these, of course, are authorized, but the Legislature could authorize this form. And, of course, variations of the traditional form that we have now, three commissioners and various officers—you could have all kinds of variations of that. And you will note in this section we've also covered consolidated governments. Now, we visualize this would be a consolidated government between a city and a county, or city and towns and counties; you'd have one government for the area and even two counties if they so wished. And, in other words, under this consolidated form, you'd have—could have a commission-mayor form, and the commissioners were elected and the mayor could be elected or appointed. And you could have the commission-manager form, where you have commissioners elected from this particular area, and you could have the manager appointed by these commissioners. And then, under this program, you could have a sheriff or you could have a law department; you could have them appointed or elected. In other words, there's many, many varieties of different types of consolidated governments that you could have; but again I want to stress that the main point of this is that—this section is that the people of the area are going to be the ones to decide what kind of government they want. Now, you might say, "Well, how would this go about? How would they do this?" Well, I would visualize the Legislature would set up these various optional or alternative forms, and they would provide in there that the city or county, if they desired to change their government, could have a three-man commission appointed to make a study of it and have hearings, say, for 6 months, where people could be invited in to see what they thought of their government and what changes could be made. And then, at the end of this, this commission would propose the best plan that they thought for the county or the city or the town, which would be voted on by the people at the next election. And this is what I visualize would happen. Course, like I say, the Legislature has to implement this entire program; but I think it certainly gives the flexibility. You can dream of all types of local government that—to fit our needs. We decide upon this particular paragraph because we have a city—or small towns of 30 to 40 people in Montana, on up to urban areas of 85 and 90,000 people, so it's pretty hard to find one form of government that's going to fit all these various types of cities and towns and counties. Now, the second paragraph in this particular article is—if you remember the clerk reading it, or you can read it—is what we call the present, traditional form of county government; elect three county commissioners and the clerk and recorder, clerk of the district court, et cetera. You recall when we were on the Judicial Article, they moved the clerk of court and the county attorney over to local government, which we accepted. We did this so all your county officials would be under one section, and if you'll note, they're under the jurisdiction of the county commissioners, and they can join two offices together or county commissioners of two or more counties can make one official serve all or be elected in two or three counties. And this gives complete freedom to the county commissioners to, in other words, update their county government to fit the needs of the particular area. Some of your larger counties, I'm sure, will need all of these officers and possibly more, so I'm sure they wouldn't do anything; but I'm sure some of the smaller, intermediate counties would want to join some of these offices like clerk and recorder, clerk of the district court. And there's a tremendous savings here to the counties. Now, many of you may say, "Well, why do you even mention it in the Constitution?" This—we had quite a discussion in our committee on this, and we did it for a number of reasons. Number one, as you'll note, we had 3,000 citizen suggestions on this very point. Of course a lot of them may have come from county officials. They're concerned, and the people of the state are concerned, that they're going to lose their elected county government. So we're putting this one form in there as an alternative; they can always say, "We have one constitutional form of county government that they can't take away from us." And maybe this is an assurance to the people we're not going to do away with county government. And if you'll note that this is just one alternative and if the people don't want it and they want some other form of government, they can vote on it and adopt any type of government that they want; but at least they'll have one that they—can never be taken away from them. I think this factor is also important in our Constitution. You know, everything we do here, you either lose a few votes or gain a few votes, and I would rather go out of this Convention with this paragraph in here, with this traditional form of county government that the people can know that their—can have if they so desire. And we'll get all the help and support of all the county officials and all the people that are concerned that they're going to lose their local government; and I'd rather have them on our side than against us, believe me. And another factor is, we had many witnesses before the committee that said, "What's wrong with our county government? We like ours, we don't want to change." And I think this feeling is throughout the state. So if it is working good, has worked good for many years, why take it out of the Constitution? It was in the old one, why not leave it in there? And a third factor is that I think that we've been very fortunate over the years to have the type of people for these various county officers; and I think they've been dedicated people, they're dedicated now, and I think they'll probably continue to be dedicated people. And certainly we're not locking in only one form of county government; this is just one alternative. And I think with those considerations, the committee finally voted that this optional form of county government, as it is today, would be left in here. And the last point that I—thing that I want to point out on this optional form of county government is the fact that the big saving of money that can be—say, for example, the people didn't want to change their government and they kept the old style under the old Constitution. Well, not near as much could be done by the county to improve it. We have put another sentence in here, allowing an officer to serve in more than one county, be elected in more than one county. And to the committee—in reviewing this, this is going to be a great savings to many counties throughout the state, and particularly now where you're getting to where you need so many experts. I visualize that assessment is going to be more and more difficult over the years, that you're going to have to have an expert. Why should you have to have one in every county? You could have a good man, an expert that could serve two or three counties, or maybe four or five. They could share the expense—it would be quite a saving—and they still have the competence of a technical appraiser. With that, I would submit that this Section 3 is a good section; it'll give all the flexibility and protection that we need; and it's actually up to the Legislature and the people what type of government they want. Thank you, Mr. Chairman.

CHAIRMAN MURRAY: Thank you, Mr. Ask.

Mr. Kamhoot.

DELEGATE KAMHOOT: Mr. Chairman, I'd have a question of Mr. Ask.

CHAIRMAN MURRAY: Mr. Ask, will you yield?

DELEGATE ASK: I'll yield.

DELEGATE KAMHOOT: Yes, Tom, as you know, of course, I'm going to have to answer about five different county governments of just what happened up here. And in my own mind, I think this is clear; but I did want to put the question to you: now, these county commissioners can abolish an office if they wish, like the clerk of the court when they don't need one, county superintendent of schools if they don't even have a country school any more? They can just abolish these on their own, can't they?

DELEGATE ASK: Yes, under this section they can, if they retain this type of government. Of course, they can choose another type if they want to, in a year or two, you know, whenever it comes to them. They wouldn't even have these officials in there if they didn't want to. But under this present form, they can abolish an office or join it, yes.

DELEGATE KAMHOOT: This is—another question?

CHAIRMAN MURRAY: Mr. Ask, will you yield to more questions?

DELEGATE ASK: I'll yield.

DELEGATE KAMHOOT: Yes, Tom—well, unless they vote to change the type of government we now have, let's say that they don't do anything; we just go home and we still have our setup like we had it, then the county commissioners could abolish the clerk of the court or something where they didn't need one?

DELEGATE ASK: Yes, that's true.

DELEGATE KAMHOOT: Yes, well, thank you, Tom. Thank you, Mr. Chairman.

CHAIRMAN MURRAY: Mr. Loendorf.

DELEGATE LOENDORF: Yes, would Mr. Ask yield?

CHAIRMAN MURRAY: Mr. Ask, will you yield to a question?

DELEGATE ASK: Yes, Mr. Chairman, I'll yield.

DELEGATE LOENDORF: Tom, I think you meant to say in answer to Mr. Kamhoot's question that the county commissioners can abolish—or they cannot abolish the office, but they may consolidate the offices; is that right?

DELEGATE ASK: They can consolidate, yes.

DELEGATE LOENDORF: So the office itself is not abolished, is that right?

DELEGATE ASK: No, they can consolidate two or more offices. Excuse me, I guess I didn't answer that question right. I mean—

CHAIRMAN MURRAY: Mr. Kamhoot.

DELEGATE KAMHOOT: Yes, another question?

CHAIRMAN MURRAY: Will you yield, Mr. Ask? Mr. Kamhoot.

DELEGATE ASK: Yes, all right, I yield.

DELEGATE KAMHOOT: Well, I'll go back to the other question then again. First, I want to clarify this. I had one clerk of the court came up to me in one of the counties and says, "Whatever you do up there, get rid of these clerk of the court jobs." She said, "I'm elected to it, I'm being paid for it, and I'm ashamed of myself every day I'm here because they don't need me," she said, "and I'd just like to have it so that this county could say, 'we don't need a clerk of the court, so let's abolish this position and quit spending the money on it.'"

DELEGATE ASK: Could I answer that, Mr. Chairman?

CHAIRMAN MURRAY: Yes. You may answer the question.

DELEGATE ASK: What I meant was, you can do away with it, but it doesn't say that; you consolidate, you put them together. So, you're always going to have to have some type of clerk of court, but it could be joined with the clerk and recorder or some other office, superintendent of the schools. In the county, by doing that, you've done away with one of the offices, but you still have the services of that person being performed by someone else.

DELEGATE KAMHOOT: Well, another question?

CHAIRMAN MURRAY: Yes, Mr. Kamhoot. Mr. Ask, will you yield?

DELEGATE ASK: Yes, I'll yield.

DELEGATE KAMHOOT: Take the county superintendent of schools; now some of our counties have country schools, some do not. If there was no need of a county superintendent of schools and the county superintendent didn't run again for reelection, so the office would be vacant, there'd be no need for it, they could go along this way; but if someone came along with the qualifications for this job and ran for it, would they be forced to let her occupy this office and pay this salary even with nothing to do?

DELEGATE ASK: Yes, they would. But what they'd have to do there is consolidate with another office, which some of them—I think there are one or two counties have done that already, consolidated with another office. But if you will note, Mr. Kamhoot, in this we have left the qualifications and—terms, qualifications, duties and compensation all provided by law, so this qualification is a—would be a separate item under Legislature. But if you didn't need a county superintendent of schools in one county, you'd just assign the duties of that office to some other office and you'd accomplish the same thing.

DELEGATE KAMHOOT: It's not in the Constitution, then it's up to Legislature to—? Yeah. Thank you.

DELEGATE ASK: Yes—well, for that particular facet.

DELEGATE KAMHOOT: Yeah, thank you, Tom.

CHAIRMAN MURRAY: Mrs. Bowman.

DELEGATE BOWMAN: Thank you, Mr. Chairman. I didn't think you would call on me. Could I ask Mr. Ask a question, please?

CHAIRMAN MURRAY: If Mr. Ask will yield.

DELEGATE ASK: I yield.

DELEGATE BOWMAN: You may have answered this question, and if you did, I apologize. But I'm concerned about the machinery for getting this change going. Is it entirely dependent on the leadership of the various units which wish to change, or can it be instigated by citizen initiative?

DELEGATE ASK: I'll be happy to answer that. If you'll notice, here's where you have to tie it all together. Section 11 is going to provide for that—how it gets done if the people don't do it. But when—we also have initiative and referendum in here on local government, where they—the people can initiate it themselves. But I would assume the Legislature is going to set up a standard procedure that says any government that wants to change can appoint a commission of three men, say, or five, to study the government and then they'll come up with a proposal to be on the ballot the next election. And if your local government units do this, why, you'll have a standard procedure to follow; and if they don't do it, why, Section 11 will take care of it, and initiative and referendum will also take care of it. The people have this right themselves.

CHAIRMAN MURRAY: Mr. Harbaugh.

DELEGATE HARBAUGH: Just a comment, Mr. Chairman, in regard to Mr. Kamhoot's question. Already the Constitution, the present Constitution, gives this power to consolidate these offices. And if you'll note on page 147 of the Local Government book, it specifies some of these counties that have already done this; and I know that some very interesting—note some very interesting combinations. The office of the treasurer and the superintendent of schools in one county, in Treasure County, is combined; in Roosevelt County, in my county, the office of the clerk and recorder and surveyor is combined in one office. So apparently the thing that you're suggesting here is not anything new, it's just a restating of the old principle.

CHAIRMAN MURRAY: Mr. Ask.

DELEGATE ASK: Why, that is true, Mr. Harbaugh, that the consolidating offices is in the old Constitution; but we've added the new sentence on there, the commissioners of two or more counties can consolidate the duties of one officer. And we particularly heard witnesses that—from superintendents of schools—that they could handle maybe two or three counties, so they could be elected in these three counties. This is the first provision that you have that they could even do that; and I think on your superintendent of schools, where you need special qualifications, these are the kind of offices that should serve more than one county. And I think this probably answers the question; for a qualified person for these duties where there are not enough work in one county, but four or five—two or three counties, they could do that.

CHAIRMAN MURRAY: Mr. McNeil.

DELEGATE McNEIL: Mr. Chairman, will Delegate Ask yield to a question?

CHAIRMAN MURRAY: Will Delegate Ask yield?

DELEGATE ASK: I will yield.

CHAIRMAN MURRAY: Go ahead.

DELEGATE McNEIL: Tom, I just want to ask what I think is basically a style and drafting concern that I have; but for the record, in the second paragraph, where it says, "the election of three county commissioners", is it the committee's intent that the word "the election" also applies to all of the other listed county offices?

DELEGATE ASK: Yes, that—they apply to all those other county officers.

CHAIRMAN MURRAY: Is there further discussion on Section 3?

Mr. Jacobsen.

DELEGATE JACOBSEN: Mr. Chairman and fellow delegates. Local Government is my committee, too, and Mr. Ask has done a wonderful job of presenting it to you. I had a proposal in for the increasing of county commissioners if it was needed. Now, some of our counties are growing pretty big; some of our cities are growing pretty big; and it's just possible under this program that we could, if the need arises, and upon an election of the people, to have four or five or up to seven county commissioners if that time comes along. And it's important, I think, that the flexibility in this is passed by this group. Thank you.

CHAIRMAN MURRAY: Members of the—

Mr. Garlington.

DELEGATE GARLINGTON: I would like to testify a little in support of this Section 3. I came over here with the idea that we probably ought to have a judicial district clerk of court instead of county clerks of court, because I felt that in a great many counties this office was not particularly busy, like Mr. Kamhoot says. And for the information of all hands, I think it would be worthwhile to pass on what I learned about the fruitful financial saving for the taxpayers that can be developed by utilizing fully the flexibility that is in this paragraph 3. In Montana we have 18 judicial districts where there is one or more judges residing at one place. This means that the other three or four counties, I guess it is, do not have a resident judge but they have a resident clerk of court. Now if there were a district clerk of court instead of a county clerk of court, there would be many, many less clerks of court. And I found that in the year 1970, there was expended by the taxpayers for the clerks of court in the counties where no judge resides and where there is very little work to do usually, five hundred and twenty-seven thousand-some-odd dollars. And I suggest that if there is a pool of a half a million dollars or more to be effected as a savings for the taxpayers in just one small example, that there is a lot of relief for the taxpayers in the Local Government Article; and I think also that one of the ways that we can persuade the voters that this new Constitution is better than the old one is to point out to them the potential for dollar savings in tax expense of government by utilizing this sort of thing which this document will make available. I had hoped that that pool of a half a million dollars would be an easy way to improve the status of the justice of peace courts, and indeed, it would make available presently consumed tax moneys for a new and better purpose. And all this simply illustrates that, really, there is much improvement that can be made in our government through more flexibility, and here's a fine example of it. Thank you.

CHAIRMAN GRAYBILL: Members of the committee, the question now arises on the motion of Mr. Ask that when this committee does arise and report, after having had under consideration Section 3 of Proposal Number 11 on Local Government, that the same be adopted. As many as are in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN MURRAY: Those opposed, say No.

(No response)

CHAIRMAN MURRAY: The Ayes have it, and so ordered. The clerk will read Section 4 in its entirety, please.

CLERK SMITH: "Section 4. General powers. Local government units not exercising self-government powers under Section 5 and 6 shall have the following general powers: Subsection 1. Incorporated cities and towns shall have the powers of a municipal corporation and such legislative, administrative and other powers as provided or implied by law. Subsection 2. Counties shall have such legislative, administrative and other powers as provided or implied by law. Subsection 3. The powers of incorporated cities and towns and counties shall be liberally construed. Subsection 4. Other local government units shall have such powers as provided by law." Section 4, Mr. Chairman.

CHAIRMAN MURRAY: Mr. Arness, I'll ask at this time that you move the entire section, even though there are subsections here, because the Chair has no amendments before it.

DELEGATE ARNESS: Mr. Chairman. I move that when this committee does arise and report, after having had under consideration Section 4 of Proposal Number 11, it recommends that the same be adopted.

CHAIRMAN MURRAY: Mr. Arness.

DELEGATE ARNESS: Mr. Chairman, I think the Chairman of the committee wanted me to talk on this one because it gives me a chance to talk about Mr. Dillon's rule. I'll tell ya, Lyle, I'll start right there. Well, the Dillon rule, which has no relation to the "Gunsmoke" show, I'm told, is named after—or takes its name from a judge who enunciated this rule, so far as it applies to cities and counties and other municipal corporations as we know them and as we know them here in Montana. The rule, simply stated, is that—oh, and this does appear on the—in the gloss that you have on the comments on this Section Number 4. So far as it relates to towns, it provides that the municipality has only those powers which are expressly granted to it by the Legislature or which may necessarily be derived or implied from the grant from the Legislature. And that is the rule in Montana; the Dillon rule is the rule for the cities in our state. The rule that is proposed in this section, which is subsection 1 in Section 4, is a restatement of the Dillon rule. Under the proposed Section 4, sub. 1, then, the cities and towns of the state will have such powers as the Legislature grants to them and such other powers as may necessarily be implied from that grant. This Section 4, sub. 1, is a restatement of the existing law. The only possible modification that could be considered to have occurred so far as that rule is concerned would appear in subsection 3 of sub—Section 4. Subsection 3 provides that the courts will liberally construe these powers, and to the extent that that is operative, that would be a modification of our existing situation. I think that it is fair to state that the section at that point, then, is simply a restatement of our existing law. The Dillon rule, as it applies so far as our counties are concerned, is even more stringent. The situation where the counties are concerned, as far as their powers, is that the county has only those powers which are conferred upon it by the Legislature. In the case of counties, they don't get the benefit of any implication that might derive from the grants of power, and it is the situation in Montana, by court decision, that counties are an administrative arm of the state. The courts have uniformly held, and the only authority on this proposition is what we get from the courts, that counties are part of the executive branch of the government and they are part—and they are an administrative branch of that government. So they are part of the executive; they are administrative; and as the court said in one of the cases which is cited in the gloss that you have before you, a county must derive its powers by express, direct grant from the Legislature, such as we held proper in the case of City Missoula against Missoula; and that is the rule. Now that rule is treated in Section 4 in subsection 2, and this is the other modification of the powers, if it can be considered to be a modification, that appears in this section. Under this section, then, counties will now have legislative powers, provided that the Legislature gives them such powers. To the extent that that section has any operation, the decisions of the Montana court—I think three of the decisions of the Montana court—are controlling. Those decisions are cited to you in the gloss; they are, beginning first of all, a case of Baucus against Lake County; and then, continuing, Plath against Hi-Ball Contractors; and the last case that I think is significant is the Missoula against Missoula County case that I mentioned to you earlier. Basically these cases hold this: in Baucus against Lake County, I think that it is fair to say that the court summed up a long line of its own decisions, and there are lots of decisions about what counties and cities can do in this state; I have been unfortunate enough to have participated in some of them. The court said that first of all, it's well settled that the county is simply a part of the executive branch of government. It is not judicial; it is not legislative; and it's clearly part of the executive. And moreover, it's an administrative branch of the executive; it's there to do what the state tells it that it ought to do in carrying out the laws of the state. Then the court went on in that case—now this case involved an attempt by a county—or several counties to set up a health district. And the court went on in that case to consider whether the counties had gone beyond what they could do as administrative arms of the executive branch of government; and they considered whether the rule against the separation of the powers had been violated or not; and they laid down a guideline for deciding whether the county had overstepped itself or not. The court there said that when the Legislature confers authority on an administrative agency—in other words, the county—it must lay down the policy or reasons behind the statute and also prescribe standards and guides for the grant of power which had—which has been made to the administrative agency. The rule has been stated as follows: The lawmaking power may not be granted to an administrative agency to be exercised under the guise of administrative discretion. Now, there is the crux of the problem where the counties have been concerned. When are they exercising administrative discretion and when are they exercising legislative authority? Well, in the Plath case—this was a zoning case which came from Billings—the court examined a zoning statute and struck it down and said that in this case the counties have been given by the Legislature a grant which violates the separation of powers principle. The court then went on and said, not only does it do that, but by allowing the counties, in combination with the cities, to set up a city-county planning board, what you've really done is violated Section 7 of the existing Constitution, which was the section that authorized consolidation of cities and counties. So the court said, "What you've done, you've allowed these counties and cities to consolidate without telling anybody. And not only did you let them legislate by zoning, but you let them combine by giving them the power to control areas around the cities by zoning and by land-use planning." At the same term of court, the court decided another case, Missoula against Missoula County. This was a suit that also involved a zoning ordinance, and in that case the court found that the zoning ordinance was constitutional. The—it's a little hard at this point to decide what is—when is the county legislating by enacting zoning laws and when is it acting as an administrative agency; because I think, in fairness, it's really difficult to say that there was much difference between the statute that the court struck down in the Plath case and the statute that the court upheld in the Missoula case. It is true, however, that in the case involving the City of Missoula, that there was no super-agency or no agency formed as a result of a combination of two existing municipalities, and possibly that is a basis for distinction between the two cases. Also, the statute under the—in the Missoula case is—was a good deal more cumbersome to operate under than the statute had been in the case of the Billings agency. But the courts have laid down this rule clearly: that in Montana, at any rate, the distinction between the three branches of government is an important distinction so far as counties are concerned. The court will allow the Legislature to delegate to the counties what it decides are administrative discretionary acts, but it will not allow the Legislature to delegate to counties what it determines to be primarily legislative functions; the difference between a legislative function and an administrative discretion will be decided by the court. The court has said that there are certain guidelines that it will follow, and generally speaking, it describes the reason and the rationale for this rule as this: they say that the tests go to the question as to whether or not sufficient standards have been provided in the delegation of power and whether or not sufficient safeguards have been established with regard to the procedure for carrying out the power. So when you view the proposed section in the light of the existing case law, what we have, I think, is this: I think that it is the opinion of the majority of the committee that the court should be encouraged to look with liberality upon attempts by counties to zone and to otherwise function in the areas of zoning and planning. The provision that we have in Section 4, subsection 2, is very cautious, and I do not think that it amounts to more than a restatement of the existing Montana law. The general tone and tenor of Section 4 is, however, directed to this end: that where possible, the Legislature—the court, in construing situations that come before it, should construe them with liberality; again, the same situation that we had so far as the cities are concerned. In summing, then, the powers that are granted under this section, I think that it's fair to say that they are a restatement of what we presently have and that the two points of departure are: one, the statement that the Legislature may delegate certain legislative powers to counties—obviously, the Legislature is the one to do it, and the delegation, I think, would be a delegation that would be in conformity to those standards that have already been determined judicially; and second, an invitation to the courts, I suppose—or an instruction to the court to liberally construe the powers of the cities and, too, the counties. There are other constitutions that have this language in them, so far as liberal construction is concerned. Massachusetts says that—in its Constitution that its courts should liberally construe questions arising as to cities and towns. Alaska says the same thing. Illinois says it; and Michigan says it. So far as the provision relating to the counties and the ordinance-making or legislative powers of the counties, there are other states that do allow some measure of power to counties. Most of them that do that go considerably farther than the article that has been proposed here. There are some—and these are states who, what we call allocate powers; that is, they give certain definite powers to counties—such as Washington—that allow counties to make ordinances regulating traffic and make ordinances regarding police matters. There are other areas that go farther. And there are some states, even, that do appear to give to the counties powers that would be almost identical to those that the cities have. I think, however, in a great many of those, that that power is largely illusory. But at any rate, there are a number of other states, California and Hawaii and Washington being a few, that do allow counties some ordinance-making powers, and that would go beyond what we have done here. And there may be—it is possible that one of the states may go to the extent of allowing the counties what are called residual powers; that is, that giving them a situation which would be the opposite of the Dillon rule, where they would have the powers that were not denied to them, rather than what we have in Montana where they have only such powers as are granted to them. Thank you, Mr. Chairman.

CHAIRMAN MURRAY: The committee will be in order, please. And we now have before us Section 4, open for discussion. Is there any discussion on Section 4? The question now arises on the motion of Mr. Arness that when this committee does rise and report, after having had under consideration Section 4 of Committee Proposal Number 11 on Local Government, it recommend the same be adopted. As many as are in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN MURRAY: Those opposed, say No.

(No response)

CHAIRMAN MURRAY: The Ayes have it, and so ordered. The clerk will read it with the committee amendments included, please.

CLERK SMITH: "Section 5. Self-government charters. The Legislature shall prescribe procedures and may set limits under which a local government unit or combination of units may frame, adopt, amend, revise or abandon a self-government charter with the approval of a majority of those voting on the question. The prescribed procedures, however, shall not require approval of a charter by a legislative body. If the Legislature does not provide such procedures by July 1, 1975, they may be established by election, either: sub. (a) initiated by petition in the local government unit or combination of units; or sub. (b), called by the governing body of the local government unit or combination of units. Charter provisions with respect to a local government unit's executive, legislative and adminstrative structure and organization shall be superior to statutory provisions." Section 5, Mr. Chairman.

CHAIRMAN MURRAY: Mrs. Speer.

DELEGATE SPEER: Mr. Chairman, I move that when this committee does arise and report, after having considered Section 5, as amended by the committee, that it be adopted.

CHAIRMAN MURRAY: Miss Speer.

DELEGATE SPEER: Mr. Chairman, I would like to make a few preparatory remarks to Section 5 and 6 before I speak to Section 5 specifically. There are two important elements in a local government charter—the structure or form of government, and the powers of local government—and these two elements are closely related; in fact, they are almost inseparable. The Committee for Economic Development has said that local government structures must first be modernized before they are capable of exercising broad powers. In Sections 5 and 6, the Local Government Committee believes that it has given the maximum amount of flexibility to local government in both the forms available and in the structures; and we believe that it provides a flexibility and representativeness and accountability for the present and for a long future. Mr. Chairman, I wish to speak first to Section 5. Section 5 directs the Legislature to provide procedures for local governments—for this Legislature to set up procedures by which local governments may frame their own charters. Delegate Ask spoke to the optional forms of charters which the Legislature might provide. As he very well described, it seems that the Legislature might provide an ample array of selections for local governments—both cities, counties and towns—to adopt. But this Section 5 carries the flexibility a bit further, and it authorizes the Legislature to prescribe limits and procedures by which local governments may frame and adopt their own charters. Today more than half of the state constitutions—or states have a charter writing powers for their cities and towns. There's a lesser number of counties that have this power; there are only 17. The section here, Section 5, in directing the Legislature to provide procedures and limitations under which local government units or combinations of units—for example, a county and a city or a county, city and towns within the county—can design their own form of government, provides for two major safeguards. First, the Legislature must set the limits and the procedures under which the charters may be designed or drafted. For example, they might—the Legislature might determine that only those units or combinations of units with more than 10,000 population should have charter-writing power. In fact, this is a frequent limitation placed upon self-writing charters. Or the Legislature could specify the number of members of the charter-writing commission and how they are to be selected, whether elected or appointed, and so on. There's a second safeguard provided here, that no charter or charter amendment could become effective until it is approved by a majority of the local voters. In other words, this leaves it up to the people affected to decide exactly what—whether they want the charter that has been framed by their elected representatives. This section also places certain limitation on the power of the Legislature. It prescribes the procedures that are to be used—or it authorizes the Legislature to provide the procedures that are to be used in adopting and framing a new charter, and it specifically states that the Legislature and the local governing body cannot deny or veto a locally drafted charter once it has been framed and if it has been framed in accordance with procedures that have been approved by the Legislature. Charter provisions on a local government's executive, legislative and administrative structure will supersede statutory and administrative measures. Well, this simply means that if a local unit chooses to appoint or elect a treasurer or select it in a different way from what the Legislature says, it may do so. (Clearing throat)—I'm sorry—I've got to get a cough drop.

CHAIRMAN MURRAY: You're doing very well, don't hurry.

DELEGATE SPEER: Just a minute. (Laughter)

CHAIRMAN MURRAY: If you're going to tell jokes back there, we want to hear them at the Chair. The Chair wants to know whether you're trying to compete with Studer. (Laughter)

DELEGATE SPEER: No, I told him I—no jokes, so that mine would be brief. I don't want to compete with Ralph.

CHAIRMAN MURRAY: Okay, you may proceed, please.

DELEGATE SPEER: The section that has been added says that if the Legislature does not provide such procedures by July 1st, 1975, they may be established by election, either through initiative, by petition in the local government or combination of units, or they may be called by the governing body of the local government unit. In other words, if the Legislature fails to enact certain procedures for framing local charters, then the local government could proceed under provisions which it has framed for itself, with the approval of the citizens. The committee believes that this charter-framing power offers the greatest range of forms that can be made available to local governments, and it allows them to tailor governments to their own needs and their own interests. And Montana does have a great variety in the size and the interests and the needs of its communities, from rural—small rural communities to large; from very small counties and to larger counties with greater wealth. And this would give them the opportunity to, as I say, frame their charters to meet their own needs. According to the testimony which our committee received, there was not a great deal of interest in charter-framing; however, there are some communities that expressed an interest, and we believe that it would be desirable to give this opportunity to them so that they would not need to wait for the Legislature to provide the additional optional forms which Mr. Ask has suggested. The committee feels that this would open the door for local government to design a form of government that is best suited to their needs and will express their own interests. We do urge the support of this Section 5. Thank you. There is to be a vote now, isn't there, or questions and a vote, rather than continuing with Section 6?

CHAIRMAN MURRAY: We will open this for discussion on Section 5 and vote, and then proceed to Section 6.

Miss Bugbee.

DELEGATE BUGBEE: Mr. Chairman, may I ask Miss Speer to yield to a question?

CHAIRMAN MURRAY: Miss Speer, will you yield to a question, please?

DELEGATE SPEER: Yes, I yield.

DELEGATE BUGBEE: Lucile, I think this is just a beautiful article, but there's just one thing that I'd like to ask. You know, in connection with the interlocal cooperation commissions in both Missoula and Great Falls, it seems to me that one of the problems when people get together to look into their local government—and drafting a local charter is a very difficult proposition—that it's very—it seems to me that it's almost impossible for ordinary citizens to do it; that this is one area in which government really needs staff. Did you consider at all putting in there that the Legislature—even the suggestion that the Legislature may fund? I mean, I don't think it even occurs to the Legislature the problems of doing something like this and how these people, a local community, does need some money to get some kind of technical staff to do their—the basic work on that.

DELEGATE SPEER: Well, we didn't consider funding. There are various procedures that are—well, there are several—there are some that are rather standard; and some constitutions—oh, not a great number—have what are called the self-executing, and tells just the steps that they go about in forming a charter-framing commission, and so on. First of all, they decide on the method of creating the commission and the number of members, and how it's to be elected, and then what length of time it would have to prepare a charter, and then how long before it would be voted on and when, then, if adopted, the provisions for adoption, and then when it would go into effect. This could be included, the procedure, in the Constitution. The only one I—well, I think I've read two—South Dakota was one that gave all of the steps to be taken in framing—in going about the framing of the charter. But I don't know that that answers your question, Daphne. Just what they—we did not consider funding of any state—urban affairs agency, no. That really would be an agency of the state rather than of local government.

CHAIRMAN MURRAY: Mrs. Bugbee.

DELEGATE BUGBEE: Mr. Chairman, may I ask another question?

CHAIRMAN MURRAY: Miss Speer, will you yield to another question?

DELEGATE SPEER: Yes.

DELEGATE BUGBEE: Lucile, that isn't what I meant. I'm not talking about a local—I'm not talking about the executive or local government committee, but about giving some direction to the Legislature; some admission that this—if you don't have self-executing powers and you go it alone, that the community needs some help. And if we're going to come into a new era, which I certainly hope we are, I just wondered if you gave it any thought of you—just putting in that one word?

DELEGATE SPEER: Pardon—Mr. Chairman, may I—ask—what was the one word? I didn't get that.

DELEGATE BUGBEE: Well, I'm not going to put it in now; I'm going to wait till the whole article is over. But I wanted to know if you'd talked about this at all.

DELEGATE SPEER: Well—Mr. Chairman.

CHAIRMAN MURRAY: Miss Speer, you may answer.

DELEGATE SPEER: I wish to restate that the committee did consider this matter, putting in what we called the self-executing provisions in the Constitution. But we felt it was better to leave that open for change in the future rather than to add a long—or rather, probably two pages—of procedural matters, when it might be that in 10 years there would be some more desirable way open. And I don't think that that information is so difficult to secure. We have talked—we did talk of leaving with the Legislative Council information as to these things which they might get to the Legislature in the coming sessions.

CHAIRMAN MURRAY: Mr. Anderson.

DELEGATE O. ANDERSON: In answer to Mrs. Bugbee, I have this red book here, and I'm reminded of the story that years ago, when Miss Speer was just starting out, the class was studying about moths, especially about Cecropia moths. And they came in to Miss Speer, and a student asked where they could get some information about butterflies and moths, and Miss Speer took a book out about three times this size and gave it to him. A few days later he brought it back and he said, "Miss Speer, there's sure a whole lot more about butterflies in this book than I really need or care to know." But there are a lot of cities with—that have gone through this chartering, and I discussed this with the Mr. Mizner of the League of Cities and Towns, and he said help would be available in this area in many areas. Now, we did discuss a self-executing charter, and since constitutional space is limited and constitutional language is very inflexible, it was thought better that we would leave this to the Legislature to develop; but there is some historical precedent. The State of Pennsylvania, I believe, had a law like this for 27 years and didn't enact self-executing charters; so this addition to Section 5 was put in so if the Legislature did not implement the chartering route, you could do it on your own. Does that help you out, Mrs. Bugbee?

CHAIRMAN MURRAY: Mr. Ask, did you wish to speak on this matter? You were up.

DELEGATE ASK: Mr. Chairman, I would like to answer Mrs. Bugbee on the question. When we talked about a Department of Local Government for the state, we thought, well, we're just adding another tier on; we'll leave that up to the Legislature if they want to do it. As far as funding goes, we feel that this is a local matter, and if there's a lot of interest in it, they possibly will do some funding themselves. And we have the League of Cities and Towns and the County Commissioners Association that are quite active and interested in this, and they indicated they would set up—they have offices to facilitate a lot of this study. And I think it's going to take a period of time to cover it, and we just didn't want to get into funding of it or who does—the city and town does it, the county, or whether the state does it. And we're just going to leave this up to the Legislature, but I'm sure they will get it done if there's any interest in any of the localities.

CHAIRMAN MURRAY: Mr. Melvin.

DELEGATE MELVIN: Mr. Chairman, perhaps one of the committee could straighten me out. On page 23, on line 5, in Section 5, it says, "a majority of those voting"; and then on the next page, in the comments, on line 10, it says "by a majority of the local voters". I would assume that the comments were meant to conform with the section by stating "a majority of those voting". Would somebody care to answer?

CHAIRMAN MURRAY: Mr. Ask?

DELEGATE ASK: Mr. Chairman, I'll answer that question. That was the intent of the committee, that it be the majority of those voting; and for the record, why, we can say it would be the majority of those voting on the question.

CHAIRMAN MURRAY: Mrs. Cross.

DELEGATE CROSS: Mr. Chairman, I wonder if Mr. Ask could clarify something for me.

CHAIRMAN MURRAY: Mr. Ask, will you yield to a question?

DELEGATE ASK: Yes, I will yield.

DELEGATE CROSS: Your comments here on how this will be done and so forth are fairly clear, but the question that comes to my mind is, you've mentioned the Legislature and you've mentioned the county officers as possibly initiating this. Are those the only two means that you are anticipating for initiating this type of local government, or is there some way the people can get involved in the initiation of it? Or does that come later?

DELEGATE ASK: Mrs. Cross, they—this will be—if the Legislature will set up the procedures and how to go about doing it, and I would assume it would provide for a three- or five-man commission, and the local government would do—but if they don't do it, we have provisions for initiative and referendum so that the people can force the counties or cities to take a look at their government and have a self-government charter. And we feel that it can come from the top or come from the bottom, either way; and I think they can accomplish what they want to do.

CHAIRMAN MURRAY: Mr. Choate.

DELEGATE CHOATE: Mr. Chairman, would Mr. Ask yield to a question?

CHAIRMAN MURRAY: Mr. Ask, will you yield?

DELEGATE ASK: Yes, I will yield.

DELEGATE CHOATE: Tom, I understand from reading this, it doesn't specify whether or not any particular slate of elected or appointed local officials is required. I assume they could adopt whatever offices they want to under charter, is that right?

DELEGATE ASK: Mr. Choate, under a charter, all the Legislature is going to do is set the limits, like you have to be a population of x-thousand people before you can do it. And they'll set out the procedure of how you have a self-government charter, and then the people—and then set limits; and I assume one of the limits will be taxation. They're probably not going to give them unlimited taxation, these charters, and they can limit them to keep them out of the felony criminal field. No, they can't pass an ordinance on felonies, but probably on a misdemeanor. They'll set the limits, and then these people that form the charter will draw their own charter, just like the articles of incorporation of a corporation—will have a President, a Vice-president and a Counsel, and will have so many elected officers or appointed officers—you go right down the line. It'll probably be quite a lengthy document. You know—how they'll pass ordinances; what they have to do to run their government so that the people know what's going on; notice to the public; and how they're going to hold their elections, et cetera. In other words, it'll be all-inclusive, what they can do themselves. And then the people, of course, get the right to vote on that. But they'll—if they want five elected officials, they'll set out what their terms are, commissioners or managers or mayors or whatever they are, and then they will go right on down the line, powers and duties for each officer—treasurer. And once that's adopted, why, that's their form of government and they can operate within that and they don't have to follow any of the other statutes, except for taxation or wherever they're limited. Thank you very much.

DELEGATE CHOATE: Thank you, Tom.

CHAIRMAN MURRAY: Mr. Choate, do you wish to speak now on this matter?

DELEGATE CHOATE: Well, I thought I had the floor. I posed a question to him.

CHAIRMAN MURRAY: Do you want to ask another question?

DELEGATE CHOATE: No. I just want to say that I support it. I think it makes good common sense. Thank you.

CHAIRMAN MURRAY: Mr. Harbaugh.

DELEGATE HARBAUGH: I have a question in my mind. I don't know whether this is the place to ask it or not, but I wonder if Miss Speer would yield?

CHAIRMAN MURRAY: Miss Speer, will you yield, please?

DELEGATE SPEER: Yes.

DELEGATE HARBAUGH: We passed a section the other day, and I don't even remember where it is, but it was a section in regard to sovereign immunity, which we abolished. And my question is, how will this apply to units of local governments, such as a city, which are under a self-government charter? Will they lose that sovereign immunity which they might have as a result of being a subdivision of the state?

DELEGATE SPEER: Well, Mr. Harbaugh, perhaps I could ask—

CHAIRMAN MURRAY: Miss Speer, would it be better if Mr. Ask responded to that question?

DELEGATE SPEER: —well, he is an attorney; but my understanding that a city or town or incorporated one exercising charter powers, does it have immunity? Now a county did, because it was an arm of the state, but since the state sovereignty is abolished, then the county no longer has any.

CHAIRMAN MURRAY: Perhaps the Chair can answer that question. As the language was adopted today by the Committee of the Whole in the Style and Drafting report, sovereign immunity for municipalities was abolished; and the fact that they were self-governing or not would not make any difference in the—in my opinion. That doctrine is now dead if this Constitution is enacted.

Mr. Arness.

DELEGATE ARNESS: That's the opinion of the committee, too.

CHAIRMAN MURRAY: There being no further discussion, the question now arises on the motion of Delegate Speer that when this committee does rise and report, after having had under consideration Section 5 of Committee Proposal 11 on Local Government, that the same be adopted with the committee amendments. As many as are in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN MURRAY: Those opposed, say No.

DELEGATES: No.

CHAIRMAN MURRAY: The Ayes have it, and so ordered. The clerk will read Section 6.

CLERK HANSON: "Section 6, Self-government powers. Local government units adopting self-government charters may exercise all powers not prohibited by this Constitution, by law, or by charter. This grant of self-government power may be extended to other local government units through optical forms—optional forms of government provided for in Section 3." Mr. Chairman, Section 6.

CHAIRMAN MURRAY: Miss Speer.

DELEGATE SPEER: I move that when this committee does arise and report on the local—that it adopt Section 6 of the Local Government Article. Mr. Chairman.

CHAIRMAN MURRAY: I think your mike is on now. Yes, if you'll speak right into it, Miss Speer.

DELEGATE SPEER: In the beginning remarks, I spoke of the interrelatedness of Section 5 and Section 6, which dealt with the two things, the power—the structure of local government and then the power. Now we extend the powers of local government beyond the general powers that were described by Franklin [sic] Ask in Section 4 and carry them to a rather broad extent. However, we do limit or hinge the exercise of these broad powers to the framing of a local charger. Now, we said local government units now have only those powers that are delegated to them by the Legislature, but under Section 6 this would give local governments, in effect, all the powers that are not denied to them by the Constitution, or by law, or by their charters. This, however, does have certain limitations. Section 6 is intended to authorize certain limits; local units to have considerably more freedom to determine their local affairs, but they are limited on the one hand to the fact that they could exercise these broad powers only if they had framed and adopted charters, and then they are also limited by the fact that they would have to be approved by the voters. This is a new concept in local government powers. We have talked of delegated powers of local government, and we are now talking of the concept of shared powers. The functions performed by local government have been extended far beyond local boundary levels, and therefore local governments cannot properly exercise the functions that they are called upon to do when limited to only local powers. Therefore, we want to give them, in this Section 6, power to share with the state government the power to serve certain—to provide certain services that are needed. For instance, air pollution is a problem that is not limited to a local area. The local area, however, has a responsibility there and must perform a function, but it is also a state and an area, a regional function; and so it's a question of the local government sharing power with the state. It is not a delegation of power which limits the local government. The local government is free to act in any function so long as the state has not exercised this function. Now this may sound as though it were giving a great deal of power to local government; but as I said, in the first place we limited only to those local governments that have framed their own charter, and the second limitation we put upon it is that the Legislature can at any time enact a law to restrict local government power or preempt that area if the local government has exercised power that is not within its proper area. Now the question is usually raised to what should be the powers of local government in the area of taxation and local debt? Well, so far, I think in the new Constitution we have limited the local government power. We've given the Legislature the power to regulate, set limits on local debt; and it may be that the Legislature probably will set limits upon the taxing power of local governments; and in the exercise of various judicial functions, the Legislature will probably limit the powers of local government. So it is not a giveaway of the state of these broad powers; it simply means that local governments are free to act to perform any service or function unless the area of service has been preempted by the state government. We feel that this is a needed power for local government in order to serve the expanding and the developing needs that are common to local communities, both urban and rural. Our local governments have changed greatly from 1889, when the Constitution was framed; in fact, the Constitution, as I think we have pointed out here, makes no reference to local powers. And we want to open this, with Section 6, so that local governments can exercise a broad range of new powers to perform services that we do not even imagine at the present time. It does give the Legislature plenty of control over local government, as I pointed out, in the fact that the Legislature can step in and limit that power or preempt the power by the exercise—by legislation. I urge the adoption of this Section 6, in conjunction with Section 5, which I believe will open local government to opportunities for service functions for our present time and for many, many years to come. Thank you.

CHAIRMAN MURRAY: Is there any discussion on this section?
Mr. Blaylock.

DELEGATE BLAYLOCK: Mr. Chairman, will Miss Speer yield to a question?

CHAIRMAN MURRAY: Miss Speer, will you yield to a question?

DELEGATE SPEER: Yes.

CHAIRMAN MURRAY: She will yield.

DELEGATE BLAYLOCK: Lucile, you speak of these powers that can be given, and if they're not necessarily—if they're not absolutely precluded by the State Legislature, then the local government has the power if they set up these charters, is that right?

DELEGATE SPEER: Yes, if the state government has not used that power—

DELEGATE BLAYLOCK: May I ask you another question?

DELEGATE SPEER: —and that is—that means that it has not been expressed as a state function.

CHAIRMAN MURRAY: You may ask another question, Mr. Blaylock.

DELEGATE BLAYLOCK: Does this mean, then, that if the Legislature does not state it as a negative, that a local city government could enact a sales tax and enact a right-to-work law?

DELEGATE SPEER: Yes, it does, unless the Legislature prohibited it; unless the Legislature had said that the local government cannot pass any such tax.

CHAIRMAN MURRAY: Are you done, Miss Speer?
Mr. Ask.

DELEGATE ASK: Mr. Chairman, maybe I could clarify that for Mr. Blaylock. Chet, when you have a self-government charter, the people can restrict the powers right in their charter; we won't have any right-to-work law or whatever you want to put in there; you can't tax beyond a certain mill or you can't have above a certain indebtedness. So the charter itself can be restrictive that the people vote on, and I assume there would be some restrictions in a self-government charter to protect the people; I mean, they don't want to give them unlimited power. But if the Legislature doesn't deny the power, if the charter doesn't deny the power, why, then they would, of course, have the power to do it, probably. Does that explain your question more, that the—?

CHAIRMAN MURRAY: Miss Speer.

DELEGATE SPEER: I wanted to say that this power, Mr. Blaylock, to—the sales tax, you see, could not be exercised unless the local government approved it; the people. And I wanted to read to you the last paragraph of a letter which our committee, Mr. Anderson, Chairman, received from Jim Murry, the Executive Secretary of the state AFL-CIO. "We have carefully analyzed your committee's majority report, as amended, and we believe the fears of our Convention"—which I think Mr. Blaylock was referring, perhaps, to; some of the reports in the paper last summer—"are satisfactorily resolved. We especially approve of the revised wording of the first sentence in Section 5, which now reads: 'The Legislature shall prescribe procedures and may set limits under which a local government unit or combination of units may frame, adopt, amend, revise or abandon a self-government charter with the approval of a majority of those voting on the question.'"

CHAIRMAN MURRAY: Mr. Arness.

DELEGATE ARNESS: Yes, I think I should maybe expand on that just a little bit. In answer to your question, Chet, what we've done here is really establish two classes of powers that cities and towns and municipalities can exercise. The first class is the class that I spoke to you about in paragraph 4. That's the situation that we have now; that's what we call the Dillon's rule. In other words, there's nothing that the Legislature—except what the Legislature gives. Now, that's the first—that's paragraph—that's Section 4; that's the one that I talked to you about. Now, the second class of power is the one—is contained in the two sections Miss Speer talks to you about. First of all, it should be observed that these do not execute themselves; the Legislature has to act. So really, it's not what it appears to be. Miss Speer was assuming that the Legislature—in her answers—that the Legislature had acted and had set up the charters. That hasn't happened, but it is possible for the Legislature to do that. However, it does require an affirmation act by the Legislature to bring this second class of power into play. The—it's contemplated that if the second class, then, is ever created—in other words, a situation where Dillon's rule is not applied but where you have a unit of government that has more than just the minimal power that might be given to it by the Legislature—if that class is ever created, that the Legislature will classify it. So it's going to set down a rule, cities of a population of 100,000 or more may adopt charters; the charters they may adopt are as follows. The—it's not at all a situation where cities, and counties, municipalities could write themselves a charter form of government, vote it in, and then start going. We won't have a situation of little city-states under the proposal that we have here. This, as they say in the Powder River country, this is not a situation where imperium in—imperial could develop. We won't have a government within a government unless the Legislature should set up a class of that kind. It's extremely unlikely that these areas would be taxing entities, such as you've suggested, or anything of the sort; but there is a second class of power here that could be called into being by the Legislature. It's obviously not suitable for small localities. It is something that would probably require a fairly large population; to me, it would seem something like 100,000 would be reasonable. When we—when the committee was talking about this, we talked about putting a figure in here, saying that if a city had 50,000 people or 25,000 people, that it could be classified this way by the Legislature; but we were—the committee was not able to agree upon a definite population figure. But this is not a situation—this is not something that's self-executing at all; this requires the Legislature to do it. So, really, it's not a situation that brings into play what has been called residual powers. These places, if they exist, do not have residual powers. They really have to go to the Legislature first; then and only then could they exercise more power than what they have now. Have I stated the proposition fairly, Tom and the other members of the committee?

DELEGATE ASK: Yes.

CHAIRMAN MURRAY: Mr. Blaylock.

DELEGATE BLAYLOCK: May I ask Mr. Arness a question?

CHAIRMAN MURRAY: Will you yield, Mr. Arness?

DELEGATE ARNESS: I yield.

DELEGATE BLAYLOCK: When I first asked this question, several—I think it was Oscar—gave me a letter here signed by Jim Murry, and evidently he had analyzed this. But I think Jim made a public confession one day, in the committee meeting up here, that he had learned most of his law in Sonny O'Day's bar; so I don't want to take too much credence in whether the legal interpretation is great or not. So what I'd like to ask you, Frank, is, if I followed you correctly, when the Legislature gives the power in granting these charters, they could say in—when they set this up, cities of, say, fifty or a hundred thousand in the State of Montana shall have the power to enact a general sales tax. The Legislature or—and they could go on and say they shall have the power, if they so decide, to enact a right-to-work law. Could the Legislature—the Legislature could do that?

DELEGATE ARNESS: Conceivably it could; it's possible that they might. I can't say, of course, what the Legislature would do, but I think it would be within their power to do that, yes.

CHAIRMAN MURRAY: Mr. Foster.

DELEGATE FOSTER: Thank you, Mr. Chairman. Would Delegate Ask yield to a question?

CHAIRMAN MURRAY: Will you yield, Mr. Ask?

DELEGATE ASK: Yes.

DELEGATE FOSTER: Tom, now, assuming that at some time one of these charters is created and assuming that there are certain listed powers that that city has under that charter, would it be possible for the Legislature to take those powers away once the charter is established, or not?

DELEGATE ASK: Mr. Foster, I feel that the Legislature would always keep some control over this, and I think they could take a certain area—but they just couldn't say, "Billings, you can't have the power of that"; they'd have to do it all the way across the state—cities with charters cannot do thus and so, see? But they can't specify one particular place; it would have to be a general law—we're taking away all taxing power; the state's going to do it; and I think they could take it away that way. Yes, I think they'd have authority to do that.

DELEGATE FOSTER: Would Mr. Ask yield to another question?

CHAIRMAN MURRAY: Will you yield?

DELEGATE ASK: Yes, I yield.

DELEGATE FOSTER: After the power was granted, after the charter was established, after it was in function, the Legislature could still come back and in a general law say that you no longer have that power, is that right?

DELEGATE ASK: Yes, in a general area. This is my understanding of it. I mean you—I mean, after all, the Legislature is the supreme legislative body of the state. I think they—if something ever got out of hand, I think they have the right to do it; but they can't pinpoint special areas; it would be—have to be a general statute.

DELEGATE FOSTER: Thank you, Mr. Ask. It would seem to me that if the charter was established and the city was operating under it, that at least under one provision, that the charter would take precedence over the Legislature; but I won't belabor the point. Thank you, Mr. Chairman.

CHAIRMAN MURRAY: Mrs. Blend.

DELEGATE BLEND: Mr. Chairman, I would like to add that, actually, there isn't any reason right now why the Legislature couldn't say that cities could enact a sales tax or cities could enact a right-to-work law. These things are available now; if that's the context one thinks of in connection with charter. But remember, the Legislature is to deal with general law for the state and not with special laws. And I just can't—I've never heard of any concept in connection with charters that hasn't dealt with general law, and not with nitty-gritty-type things of that sort. They would give general taxing powers of certain kinds, et cetera, to make them conform with the state revenue and taxing prerogatives.

CHAIRMAN MURRAY: And, Miss Speer, did you have something further to say?

DELEGATE SPEER: Mrs. Blend said what I was going to say.

CHAIRMAN MURRAY: Okay, Mrs. Blend covered that point.
Mr. Ask.

DELEGATE ASK: Mr. Chairman, maybe I could answer Mr. Foster's question a little more thoroughly. I think you're thinking of Section 5, where—in the second paragraph, where it says: "Charter provisions with respect to a local government unit's executive, legislative and administrative structure and organization shall be superior to statutory provision". In other words, that's their executive, legislative and administrative; they would have their own for that; and I think that's what you were talking about, their powers, what they could do in taxation or misdemeanors. I think they could change that, but probably not the structure.

CHAIRMAN MURRAY: Mr. Foster.

DELEGATE FOSTER: I would yield to a question, if that was a question. When I first read this provision you refer to here, the end of Section 5, "shall be superior to statutory provisions"—when I read "statutory provisions", I was thinking of legislative state statutes. But your intent here, then, is that those are city statutory provisions?

CHAIRMAN MURRAY: Mr. Ask?

DELEGATE ASK: Mr. Foster, that means that with this charter they'll have an executive—set up some type of an executive, and their legislative powers will be set forth in there. How they—what—they going to have a council or a commission—that would be their legislative power. And then their administrative structure, like they're going to have a sheriff, a treasurer, et cetera. In other words, when this—this is superior to the statutory law, because they are choosing their own type of government. And whatever the other statutes say—that you have to have a treasurer, auditor, or something like that—they don't have to abide by that because they have their own officers. So, so far as that's concerned, they're superior to statutory law; but then, when you get out into taxation and criminal law, fields like that, then the Legislature has power. Because that is—it doesn't say that; it just says "executive, legislative and administrative"—they would have complete authority over that. In other words, the Legislature couldn't pass a statute, say, we do away with all commission forms of government and self-government charters; they couldn't do that because they've adopted their own.

CHAIRMAN MURRAY: Mr. Foster.

DELEGATE FOSTER: Mr. Chairman, if I have the floor, I would just make one observation: that if, in fact, this statutory provision is a limited statutory provision, at least I interpret it wrong and there's a possibility that others might interpret it wrong. I suppose Style and Drafting can probably clarify that point. But I was a little—it seemed to me when it says that it's superior to statutory provisions, I immediately read into it that once the charter was established and functioning, that, in fact, they retained those powers without control by the Legislature; and if that's not the intent, it would be my opinion that it should be made clear at least. Thank you, Mr. Chairman.

CHAIRMAN MURRAY: Further discussion? Members of the committee—

Mr. Romney.

DELEGATE ROMNEY: Mr. Chairman, I would like to ask a couple questions of Delegate Arness.

CHAIRMAN MURRAY: Mr. Arness, will you yield to a couple of questions from Mr. Romney?

DELEGATE ARNESS: I yield.

DELEGATE ROMNEY: My friend, I was a little agitated by the replies you gave to Delegate Blaylock. To continue that a little bit farther, we'll say that the city of Opportunity sets up a charter, and they can enact right-to-work laws and sales taxes; permit wide-open gambling, prostitution, drug sales, and one thing or another of that character; and become a little Las Vegas—and maybe not so little. What's to stop them?

DELEGATE ARNESS: What you're asking me is what's to stop the Legislature, really. I think the people that we're worried about—that worried about the right-to-work law and other things felt that they could fight their battles out in the Legislature; but that's the answer, of course. It would have to be dealt with at the Legislature—or at the legislative level, probably, rather than city by city or town by town. Surely, if we had the charters for these villages of a thousand, or ten thousand people, it would be too much for any organization or group of organizations to handle, fighting the things they didn't like. I think that the Legislature is the battleground for these things. But certainly that possibility, I suppose, is opened up here, although it seems to me that it's a very vague possibility. Did I answer you?

DELEGATE ROMNEY: Then—yes, it does. Then what—we have to depend entirely upon the restrictions which the Legislature imposes?

DELEGATE ARNESS: Yes, that's right. Not only—it goes a step further than that, because, first of all, assuming that this section is adopted, then there are no restrictions, there are no procedures, and there is no second class of power as far as the cities or the municipalities are concerned. It's up to the Legislature to create this second class in the first place; and then, having created that class, cities who found themselves eligible, or areas that found themselves eligible, could apply to the Legislature. But it would require, really, two steps: first of all, for the Legislature to act at all to create these classes; and once having created it, then, of course, the second step, the actual charter itself.

DELEGATE ROMNEY: The next question is in this Number 2, "If the Legislature does not provide such procedures by July 1, 1975, they may be established by election", and so on, so forth. That means, if the Legislature doesn't act, Opportunity could grasp the opportunity and go ahead by itself?

DELEGATE ARNESS: It would appear that does say that, and I believe that—it's my opinion that you've stated this correctly.

DELEGATE ROMNEY: And then, as I understood Delegate Ask, once a charter is granted, the Legislature cannot take it away?

DELEGATE ARNESS: No, I don't think that he meant that; I don't think that he said that. There's nothing in the provision of this article that would prevent the Legislature from restricting a charter once it had been granted. This is not a situation where the charter—there are some places, I understand, that do have language that give charter provisions that kind of status once they've been set up. But as I understand it here, that's not the case. And the Legislature could limit charters, having granted them. The language that Mr. Ask was talking about refers to the intent to allow the area, once it has elected to enjoy this city-state status, to determine the form of its city-state. So if it wants to have an emperor and a court, I suppose then that it could decree that and we couldn't do anything about that; but if the emperor decided that he had to have a right-to-work law, the Legislature could put an end to that, but not to his status as emperor. I think that's clearly intended by that, that the area can decide what form of government it wants, but it can't decide the substance of any of the substantive laws. I believe that's the intention of the majority of the committee. You understand that I am answering for the majority.

DELEGATE ROMNEY: And if that—then nothing would preclude the establishment of a parliamentary government?

DELEGATE ARNESS: No, I think that's right; in fact, I think that's what all the cities in Montana have right now, isn't it? Excuse me, I'm sorry; I shouldn't have asked you a question.

DELEGATE ROMNEY: I think that's a little aside.

DELEGATE ARNESS: Possibly we could refer that to our parliamentary expert.

CHAIRMAN MURRAY: Let's keep our dialogue in point, now.

DELEGATE ROMNEY: Finally, I would like to know if, having aldermanic plan available and the city commissioner plan and the city manager plan available, was there any hue and cry and clamor on the part of the populace of Montana for a charter situation?

DELEGATE ARNESS: So far as I know, there was only one witness that appeared before our committee who was even vaguely interested in this; and as I interpreted it, his interest was—there was some interest, that's right—that was the mayor of Missoula, and that's the only one that talked about it.

CHAIRMAN MURRAY: Any further discussion?
Mr. Simon.

DELEGATE SIMON: May I, Mr. Chairman, ask if Mr. Romney would yield to a question?

CHAIRMAN MURRAY: Mr. Romney, will you yield to a question by Mr. Simon?

DELEGATE ROMNEY: Yes, sir. I yield.

DELEGATE SIMON: Mr. Romney, in the area that we are talking about, I wonder if many of the things that you are worried about are not going to be covered in the Constitution; and I don't think the Legislature could usurp the things and put them in a charter that is prohibited in the Constitution, am I right?

DELEGATE ROMNEY: Yes. The whole thing has such fascinating possibilities that are offered, that I couldn't—I wanted to find out what was available.

DELEGATE SIMON: Thank you.

CHAIRMAN MURRAY: Miss Speer.

DELEGATE SPEER: Mr. Chairman, I wanted to remind Mr. Romney that in the early history of our counties and states, that local governments did possess these powers. It was only in later years that they were curbed by Legislatures. That was a—the Dillon rule was a much later interpretation. So this return to some degree of self-government, which is hinged upon the desire, the initiative, the will of the people to frame their own charter, is probably not going to be exercised widely; but it was done in the early days of our country. And I think the old town meeting was supposed to be the most democratic form of local government, was it not, Mr. Romney?

CHAIRMAN MURRAY: Members of the committee, the question now arises on the motion of Delegate Speer that when this committee does arise and report, after having had under consideration Section 6 of Committee Proposal Number 11 on Local Government, that it recommend the same be adopted. As many as are in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN MURRAY: Those opposed, say No.
(No response)

CHAIRMAN MURRAY: The Ayes have it, and so ordered.
Mr. Rygg.

DELEGATE RYGG: I move the committee be in recess for 10 minutes.

CHAIRMAN MURRAY: Motion has been made by Mr. Rygg that the committee be in recess for 10 minutes. As many as are in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN MURRAY: Those opposed, say No.
(No response)

CHAIRMAN MURRAY: Ayes have it.

(Convention recessed at 4:50 p.m.—reconvened at 5:10 p.m.)

CHAIRMAN MURRAY: The committee will be in order. The committee will come to order. The clerk will read Section 7.

CLERK HANSON: "Section 7, Intergovernmental cooperation. A local government unit, by act of its governing body, may or, upon being required by initiative or referendum, shall cooperate, consolidate or agree in the exercise of any function, power or responsibility with, or share the service of an officer, or transfer or delegate any function, power or responsibility or duties of an officer to one or more other local government units, school districts, the state of the United States, unless prohibited by law or charter." Mr. Chairman, Section 7.

CHAIRMAN MURRAY: Mrs. Blend.

DELEGATE BLEND: Mr. Chairman, I move that when this committee does rise and report, after having had under consideration Section 7 of Proposal Number 11, it recommends that the same be adopted.

Mr. Chairman.

CHAIRMAN MURRAY: Mrs. Blend.

DELEGATE BLEND: The Intergovernmental Cooperation Act has been on the statutes since the Twenties. This revised section which we offer in our article would provide cooperation, coordination, agreement or consolidation in the exercise of any function, power or responsibility of a local governmental unit. It would provide again for the sharing of the services of a public officer. It could provide the transferring or the delegating of functions, powers or responsibilities or—and duties of an officer. And, of course, all local government units, cities, towns, counties, and any mix and match arrangement thereof—school districts—can enter into interlocal government cooperation agreements. And we have added in ours, which is not in the statute, that local government units can also have agreements with the State of Montana or the United States. Regardless of the form of government that local government units might have—whether they are joint units, single units; whether they have retained the status quo with the form of government they currently have; or if they change—they can enter into intergovernment cooperation agreements very easily. It is an opportunity for entities of government to get together with their neighbors down the road, or with their county officials, to decide on things which may not require a change or a form in government, but only to provide a function that may bring on economy. Some of the things that one thinks about is the mutual purchase of a snowplow, of county equipment for repair of roads; for the use of any utility functions where it might be feasible to arrange an agreement. Another feature of our revised intergovernmental cooperation agreement is that it is functioning if it is agreeable and signed by the entities of local government; it does not have to be approved by the attorney of state, which is the provision in the prevailing statutes now. We feel that this should be in the Constitutional Article to make a full, complete framework of local government at this time, which lack of framework in the present Constitution and the piecemeal fashion in which it has been developed over the years makes it very difficult for people on the local level to coherently know what is available to them. Recent state Constitutions have included it in their Constitutions; such as Alaska, Hawaii, Illinois, Michigan, the State of Virginia, and Pennsylvania, of course. The proposed North Dakota Constitution also included such a section. Local government units no longer would have to wait for specific legislation authorizing them to cooperate and share services. This section, as proposed, directly gives local units the authorities to cooperate and share. In other words, ultimate legislative authority is retained in setting up the provision, but local government is free to act under their provisions established in advance. This would give the people an opportunity, perhaps preliminarily, to review their government to learn how cooperative action can take place between a city and a county or cities, which could lead to an understanding of consolidation or chartering or another form of government. The section specifically makes it clear that the people, through an initiative and referendum measure, may force their local government to cooperate if government itself does not take it upon itself to arrive at these conclusions. I think that most of the delegates are familiar with interlocal commission; it was established somewhere back in the twenties, but it was not until 1967, when it was revised in the Legislature, that the local government units in the state really became aware of it. Several towns—cities in the state have experienced interlocal government commission arrangement. They are so very valuable from the standpoint of citizenry getting together to talk over their problems, if nothing else. I think that it is worthwhile to retain it in the Legislature—in the Constitution. Thank you, Mr. Chairman.

CHAIRMAN MURRAY: Members—Mr. Berg.

DELEGATE BERG: Would Mrs. Blend yield to a question?

CHAIRMAN MURRAY: Mrs. Blend, will you yield?

DELEGATE BLEND: I yield, Mr. Berg.

DELEGATE BERG: Under this provision, would it permit a city and a school district to cooperate and coordinate their functions in the construction, for example, of a swimming pool?

DELEGATE BLEND: Yes, that could be accomplished.

DELEGATE BERG: Well, I can't find anywhere in the article where it refers to the cooperation or the agreement with regards to facilities. I see it so far as the services of an officer are concerned, and the exercise of functions, but I don't see it insofar as the use or management of a facility or the ownership of a facility is concerned.

DELEGATE BLEND: Power—well, really, it does provide for ownership because examples of it have been that local government can purchase equipment together; they can use a computer together, either on a lease basis or whatever arrangement they decide upon. I don't believe that the Interlocal Cooperation Act particularly has to mention ownership. The basis of the coordination, cooperation, or consolidation indicates that whatever agreements or terms the local governmental entities come to and they make the formal contract, arranging for the payments, et cetera, et cetera, will make it a bona fide agreement.

DELEGATE BERG: Would you yield—would Mrs. Blend yield to another question?

CHAIRMAN MURRAY: Will you yield to another question, Mrs. Blend?

DELEGATE BLEND: I yield.

DELEGATE BERG: If at—I'm looking at page 28—if you added the word, after "officer", at the end of that line, "or facilities"—comma, would that clarify the situation that I have in mind and which is a problem in our community?

CHAIRMAN MURRAY: Now, the committee's been noisy all afternoon and I wish you wouldn't be, please. Show a little respect to these people—besides that, I can't hear. Now, go ahead, Mr. Berg.

DELEGATE BERG: I'm only suggesting that you might add the word "or facilities", which I think might clarify the situation.

DELEGATE BLEND: I think that perhaps it would, and I would have no objection and I don't believe that the committee would, because we want this agreement to be inclusive and expansive. That would be agreeable.

DELEGATE BERG: Mr. Chairman, then I move to amend Section 7, on page 28, line 18, at the end thereof, by striking the comma and adding the words "or facilities, comma".

CHAIRMAN MURRAY: All right. Now, I'm working from a different page than you are. Give me that again, please.

DELEGATE BERG: I was on page 28, and on line 18, where it says "or share the services of an officer", I would strike the comma and add the words "or facilities, comma".

CHAIRMAN MURRAY: "Or facilities, comma"; is that right?

DELEGATE BERG: Yes.

CHAIRMAN MURRAY: Do you wish to speak to that, Mr. Berg?

DELEGATE BERG: No, I think the questions I've asked and the answers given are explanatory enough.

CHAIRMAN MURRAY: Okay. Mr. Berg has offered an amendment to strike the comma after the word "officer" and add the words "or facilities" and then place the comma. As many as are in favor of his amendment, say Aye.

DELEGATES: Aye.

CHAIRMAN MURRAY: Those opposed, say No.

(No response)

CHAIRMAN MURRAY: The Ayes have it, and so ordered. Further discussion? (No response) The question now arises on the motion of Delegate Blend that when this committee does rise and report, after having had under consideration Section 7 of Committee Proposal Number 11 on Local Government, that it be adopted as amended. As many as are in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN MURRAY: Those opposed, say No.

(No response)

CHAIRMAN MURRAY: The Ayes have it, and so ordered. The clerk'll read Section 8.

CLERK HANSON: "Section 8. Revenue sharing. Nothing in this Constitution shall prohibit the state from sharing revenue with local government units, or the units from participating in revenue sharing with the state or the United States." Mr. Chairman, Section 8.

CHAIRMAN MURRAY: Mrs. Erdmann.

DELEGATE ERDMANN: Mr. Chairman. I move that when this committee does rise and report, after having had under consideration Section 8 of Proposal Number 11, it recommends that the same be adopted.

Mr. President [Chairman].

CHAIRMAN MURRAY: Mrs. Erdmann.

DELEGATE ERDMANN: Article XII, Section 4, of the present Constitution of Montana has been interpreted as limiting the state aid that can be provided for local government. The result has been a tightening of the local fiscal squeeze, increased reliance on the property tax, subterfuge to get around the constitutional limitation, and the resulting fact that Montana ranks 46th in the nation in state per capita aid to city and county governments. As a matter of fact, in the tabulation for the year 1969, the—on a per capita basis, Montana distributed $6 to its people in local—and I mean—when I say "local", I mean county and city—$6 on a per capita basis, as compared to the national average of $49. At this time, since we adopted the Taxation and Revenue Committee report, this restriction has been removed—deleted from the Constitution; however, the committee believes it is highly desirable to affirmatively provide that the state may share revenue with the local units and that the local units may participate in revenue sharing with the state and with the United States. Such a provision will not assure such state or federal assistance, it will only assure that the Constitution will not stand in the way of statutory provisions for such aid. Mr. Chairman, because I believe there's been a little bit of confusion about this revenue sharing, may I continue further a moment?

CHAIRMAN MURRAY: Yes, you may, Mrs. Erdmann.

DELEGATE ERDMANN: Section 8 actually does two things: it states that nothing in the Constitution shall prohibit the state from giving aid to the local units, and it states that nothing in the Constitution should prohibit the local units from accepting that aid from the state or national governments. The committee felt that the present programs of state aid are such a tangle of subterfuge that it will take a direct statement that state aid is permissible, such as Section 8, to straighten out the general mess. For example, at present, taxes are disguised as license fees so that they may be given to local governments; and the purpose of state aid has been claimed to be for the purpose of the state rather than of the locality, to get around the present Constitution. No one knows for sure what form federal aid to local governments is going to take in the future. Will it be direct grants to the units locally, or will the money be channeled through the state? Will it be based on population, or will it be based on need? What will the county and the city governments have to do to comply to get the money? No one knows the answers to these questions now. Section 8 simply assures that the State Constitution will not stand in the way of local governments accepting such aid, and thus relieving their local property taxes. Thank you, Mr. Chairman.

CHAIRMAN MURRAY: Mr. Gysler, you have an amendment. Would you like the clerk to read it at this time?

DELEGATE GYSLER: Please.

CLERK HANSON: "Mr. Chairman, I move to amend Section 8 of the Local Government Committee Proposal Number 11, on page 5, line 17, by adding the following between the words 'revenue' and 'with'—quote: 'except revenue from real estate and personal property taxes'—comma. Signed: Gysler."

CHAIRMAN MURRAY: Mr. Gysler.

DELEGATE GYSLER: Mr. Chairman, fellow delegates. I've been on this floor a time or two before, as you will recall, on removing the mill levy on property taxes and so on. In talking to members of this committee—and I have done this over a period of quite awhile—their intent, they tell me, is not to share any real estate and personal property taxes; their intent is to allow federal revenue sharing, the liquor taxes, the gas taxes, and to make all of these things legal, which I am certainly in agreement with them. However, as long as this is their intent, I decided to write this amendment. Now, if you—if the committee will recall, when we were on Section 1, I asked Mr. Rollins whether any of these governmental units that were being talked about in this section applied to school districts or school boards or anything like that, and Mr. Rollins answered no. Now this was the reason given to us in the Revenue and Finance Article that we could not put any mill levy limit on there, so now we have that restriction removed. I think as long as this is the committee's desire, as stated to me by several of them, that federal—or property taxes not be used for this revenue sharing, that we add the eight words to the Constitution and say that it won't be. As I have said on this floor before, I live 40 miles from a town who is in a financial mess. When the Revenue and Finance Committee had their hearing here and Mrs. Erdmann asked the Revenue and Finance Committee about revenue sharing with cities and so on, none of them did; but if you will recall, at that time I stood up and said that I would have some reservations about it. After that the mayor of Great Falls sat over there and tried to stare a hole at me—or through me for about 20 minutes. But this is the real concern; and it really is a concern to those of us who live close to that—to Great Falls. If you buy the *Great Falls Tribune*, you see on the front page this morning in a big headline, "City in Money Mess". They had—I believe they had some auditors up there awhile ago; now they have seven state auditors in there trying to figure out what's going on. But I think—I know that this is a real concern, whether you're in Shelby where Mr. Aronow lives, or where I live; and so I sincerely ask you to adopt this.

CHAIRMAN MURRAY: Mrs. Erdmann.

DELEGATE ERDMANN: Mr. President [Chairman], I would like to have Mr. McDonough—I don't believe he's in the room, but he'll probably be here presently—respond to this, because I would imagine it's in violation of the statewide assessing and the property tax paragraph in his report. However, I can't help but observe the anxiety that Mr. Gysler has always expressed, as a resident of Fort Benton, against my hometown. I think it goes back to the days when we dumped all our sewage in his river, probably. (Laughter) But I do say that I would like to hear from Tom Ask until the attorney for the Taxation and Revenue Committee would be in the room. But the paragraph that we have put in here, I'm sure Mr. Gysler understands, is simply to protect his county and our cities so that they are—it safeguards them so they're in a position to share revenue. His anxiety I certainly share, but I believe the time to have fought this was during the time that we were having the Taxation and Finance Article. I believe it was folly to lift the 2-mill statewide property tax, but I don't believe that you can fight that battle in this section; and I share, and I'll repeat again, I'm concerned about the loss of the earmarking. When we removed the auto license earmarking from the antidiversion section of the highway section, we automatically put that $5 million that heretofore has been earmarked for roads for county and city purposes and we have given it to the Legislature to their general fund. The Taxation and Finance Committee keep assuring me that the Legislature now has statutes giving this money back to the counties and the cities and that there's no reason to think they won't do it in the future. They don't have to do it in the future; and I see they're going to be in a desperate situation with all the extra costs that this commission is going to throw back on them after the adoption of the new Constitution. They're going to have to have a great deal more money to take care of welfare and education, and I would feel much, much more relaxed if we had continued to keep the $5 million license plate money earmarked for local—for county and cities. But we didn't do it. And I maintain that his problem should have been settled under Taxation and Finance. Thank you, Mr. Chairman.

CHAIRMAN MURRAY: Mr. Arness.

DELEGATE ARNESS: Will Mr. Gysler yield?

CHAIRMAN MURRAY: Mr. Gysler, will you yield to a question, please?

DELEGATE GYSLER: Certainly.

DELEGATE ARNESS: If I got this amendment right, now, Erv—I wrote it down here—what you want to do is to prohibit sharing from personal real property taxes between the state and units of the state. That's what you said, "personal real property taxes"?

DELEGATE GYSLER: Mr. Arness—

CHAIRMAN MURRAY: The amendment reads, "except revenue from real estate and personal property taxes".

DELEGATE ARNESS: Oh, okay, I've got it—"except revenue from real estate and personal property taxes". May I ask, what is the purpose of the amendment? I'm not sure that I understand it.

CHAIRMAN MURRAY: Mr. Gysler, he asked you what the purpose of the amendment was.

DELEGATE GYSLER: Mr. Arness, the purpose of the amendment is to try to keep down the property taxes in the state. Now the reason that I did just those two taxes is your committee members—I don't believe I talked to you on it, but the committee members that I did talk to said that they had no intent to use any of these kind of funds. This, then, does not restrict the gas taxes or any of the other taxes or the federal funding from going to the states; just this, because this was such a great concern while I was campaigning last fall.

DELEGATE ARNESS: Thank you. That's all I had.

CHAIRMAN MURRAY: Mr. Anderson.

DELEGATE O. ANDERSON: Would Mr. Gysler yield to a question?

CHAIRMAN MURRAY: Mr. Gysler, you will yield—I guess.

DELEGATE GYSLER: Certainly.

DELEGATE O. ANDERSON: Mr. Gysler, what would happen if a city-county library in, perhaps, your county should want to combine with the local school library? Eventually there should be a statewide levy for schools, and that money would come back from the state to the schools and they would attempt to cut expenses in your county and wouldn't be able to do so because the courts might hold that this would be a distribution of real estate or property taxes.

DELEGATE GYSLER: Well, Mr. Anderson, I think the first thing that would happen would be a taxpayer revolt in my county and quite a few others if they started financing that way.

DELEGATE O. ANDERSON: Mr. Chairman.

CHAIRMAN MURRAY: Mr. Anderson.

DELEGATE O. ANDERSON: I would like to rise and resist this amendment, because I can see the implications. The whole intent and purpose of the Local Government Article was to allow flexibility so we could bring about two things in local government; one of them is economy. The maximum economy could be used in every area of local government by utilizing and combining their resources and flexibility. Now, there is no intent—you know, I'm a hick from Hicksville, right down in Sidney, Montana, and I don't want to see any property taxes on either real or personal property pulled into state and redistributed to the cities; and that's the furthest thing from our minds. But I certainly do resist the—anything that could come into the future, such as the utilization of a school library and a city-county library that could effect savings for a—in the local government area and the school area both, and something coming along like this to prohibit it. And I resist the amendment.

CHAIRMAN MURRAY: Mr. Ask.

DELEGATE ASK: Mr. Chairman, I rise in opposition to this amendment. If you read this section as proposed, it's not directing the Legislature to share revenue, it's just saying that nothing in this Constitution prohibits the sharing of revenue. And I look for the day, maybe many years from now, that possibly a school district could be classified as a local government unit, to give it some more power; it would be a larger district maybe and elected trustees; it could be—they say, "Well, we'll give you the powers of a local government unit." And then here we lock in these words; and if you have a statewide levy of some type for schools, how would you ever get the money to the school districts then? And I don't see your problem, Mr. Gysler. We're not intending to take money from your county to pay in some other county here. We're just saying that we're not prohibiting revenue sharing. But I wouldn't like to see these words locked into our Constitution and prohibit something in the future—future years if you happen to call a school district a local government unit, which they might want to do some day. And by this you'd say, "Well, we can't do it then; you'll just have to go on your own like we are right now."

CHAIRMAN MURRAY: Mrs. Blend.

DELEGATE BLEND: Would Mr. Gysler yield to a question, please?

CHAIRMAN MURRAY: Mr. Gysler, will you yield to a question?

DELEGATE GYSLER: Certainly.

DELEGATE BLEND: Mr. Gysler, if I read the section which we passed under Environment and Natural Resources—now, money to be collected on cattle, et cetera, would be personal property tax, wouldn't it? Well, that goes into the state coffers. Now, if you restrict a sharing of money from personal and real property tax, how could any of that come back to Chouteau County, the same as the educational funds?

DELEGATE GYSLER: Mrs. Blend, if you

will read that article on levies and read the comments along with it, that is a tax on a special commodity that is produced to be used, not in the local community particularly, that is to be used for the good of agriculture in that particular commodity all over. This money will be gone out—taken care of with a state agency; and here we are talking about local government; and I don't really foresee any problems with the mill levy situation at all.

DELEGATE BLEND: Mr. Chairman, may I reply?

CHAIRMAN MURRAY: Mrs. Blend, you may speak.

DELEGATE BLEND: Well, Mr. Gysler, in a—to restrict an article of finance in a general article such as local government is—I think there possibly could be an interpretation of that kind, because you're unrestrictedly saying "real and personal property". If it is your thought—and I really can't believe it is—that the real and personal property tax that you would collect in Fort Benton, Montana, could in any way be redistributed up and back through the state down to Great Falls, Montana, I can't possibly envision anything like that. Is that, if I may ask, what you have in mind?

DELEGATE GYSLER: That is to me a very real possibility after reading your *Great Falls Tribune* for the last year and seeing what your city council says; they will be out of the financial troubles if the new Constitution, if it's approved, will just approve revenue sharing.

DELEGATE BLEND: Mr. Chairman, may I reply?

CHAIRMAN MURRAY: Mrs. Blend, I don't know who's asking who questions, but you may speak. (Laughter)

DELEGATE BLEND: Thank you.

CHAIRMAN MURRAY: And if you don't ask him a question without asking me, then I'll know who is asking who a question. (Laughter)

DELEGATE BLEND: Thank you. Well, I cannot believe that Mr. Gysler believes everything that he reads in the paper; (Laughter) because if we have ever had a good course in that, it's been at this Constitutional Convention. The particular problems that Great Falls has, I hope that other communities can benefit from; and I assure him that it has never occurred to anyone, nor is it possible under the law, for us to look to other communities to help pay our bills, because if we had, we have towns in our county that we perhaps would have looked to. I do not think that Mr. Gysler's fears are anything but fears in this connection. And he would restrict the flow of funds that it would be possible to get from the state, which certainly would be on a pro rata basis exactly as the ones that we have now. And I resist his amendment for not being valid. Thank you, Mr. Chairman.

DELEGATE ARONOW: Mr. Chairman.

CHAIRMAN MURRAY: Mr. Aronow.

DELEGATE ARONOW: I rise in support of Mr. Gysler's amendment; and let me tell you that Mr. Gysler's fears are not imagined, they're real. And during the campaign in District 15, that was one of the things that our cowboys—excuse me, Torrey, we have some that are not from Powder River County; they are from Glacier, Teton, Toole and Pondera; and we have a lot of wheat farmers also—they were highly concerned; and that's one of the things that I pledged—that I would not come down to this Convention and do anything that would authorize a levy of a tax by the State of Montana on the rural and agricultural lands and other assets of this state in order to be funneled through the State of Montana back to the urban areas. Sure we have towns; we have cities, small in population. And the amount that we would get in our area and along the entire Hi-Line of northern Montana would be a drop in the bucket—it'd be pennies to the dollars that urban areas would receive. The rural people of Montana contribute a great deal to the merchants, the business places of every city; they support them; and without that rural population, the cities cannot exist under their own momentum. And this is a dangerous thing in this Constitution. It is something, I think, that will defeat this Constitution, because people are not going to buy this type of thing. And those fears are not imagined; I tell you they are real. They are one of the fears that a majority of the people of this state have, and no matter how many words you use here on the floor of this Convention, it is not going to convince the people of Montana. And I rise in support of Mr. Gysler's amendment, the language may need to be dressed up a little bit. And at the moment I can't—Style and Drafting might take care of it. We hope. And if you want to defeat this Constitution, this is just the exact thing that will do it. And I'll be forced—I can tell you this: that I'll be forced to go home and campaign against it, because it's a promise I made to my people, that I will never vote for anything of this sort. Thank you, Mr. Chairman.

CHAIRMAN MURRAY: Mr. Mahoney.

DELEGATE MAHONEY: Mr. Chairman.

CHAIRMAN MURRAY: Mr. Mahoney, will you wait just a moment, please, before talking, because we want to change the tape up here again. Thank you. Mahoney, we're now ready for you. We're quick up here.

DELEGATE MAHONEY: Mr. Chairman, first we come in with a tax thing, and that was very good, very able; and they let us have statewide levies unlimited, no troubles at all. Then here the other day we helped—and I helped—put the welfare over to the Legislature, so this is now statewide. We aren't going to have anything. Now we come along with this one, and w:'re going to now put the cities out here under the—getting part of the statewide levies. Now, in answer to Mr. Gysler, I don't think your amendment is worth a dime. And this looks at me kind of funny—but it ain't, because once you get the money in the funds down here, it ceases to be earmarked; it ceases to be anything. Now, if you don't—if you could go out here and say, "We're going to put this money out to the cities"—but you just turn around and take another fund and you send out to the schools, and you shut—cut that down and you put this money out; and so you're evading your law. I can see how that could be evaded; it isn't the question. The question is, right here, we're going back to the next session of this Legislature, and it's becoming very difficult when this body, unicameral or bicameral, to decide on the next tax proposition after the defeat of the sales tax. Now we're taking off all strings on property tax. We done this in the Revenue Committee, and this became an unlimited—bonds, unlimited levies—and we also turned around and decided to exempt certain classes of property. Now, if this goes—and Mr. Aronow is so correct—this is going to come out and have property tax, then we will have the cities going. Now we're already started; this is nothing new. I don't know how they're doing it. We have the sewer bonds—that were sewer—millions; I believe it's 3 million was appropriated last time to take care of the sewers in stricken sewerage treatment plants. Helena's right in there getting; so is Billings; there's a lot of the other cities. I don't know if Great Falls is or not; maybe if they'd get that they wouldn't be in the trouble they're in. But this is what you are actually doing under this, once we go to revenue sharing. Now revenue sharing may be fine. This might be—I'm going to say this: this might be an idea; it's not obligated to the Legislature; I don't think you're doing that, except it's here. And if you don't think these cities ain't just as smart as the—anybody else—they're a lot smarter than us fellows—Well, I didn't come from Powder River—but they're just as smart—they're going to be in here grabbing and saying, "Now, the Constitution says this: we can get it; they meant for us to get it; and you—we want the appropriation". And we will see the pressure that will come on either that unicameral or that bicameral bodies of the next session of the Legislature. And I think this whole section should be defeated because this is there. Now, if you have no provision in the Constitution that says you can't revenue share at all, that I don't think you have; but the other one has been quite explicit. Maybe we don't need any section in here. I'm not going to make that motion; I'm going to let some of the more learned gentlemen make it.

CHAIRMAN MURRAY: Mr. Swanberg.

DELEGATE SWANBERG: Mr. President [Chairman], with some reluctance I rise to support the comments of Charley Mahoney. Two of my very good friends from Great Falls are on this committee, Mrs. Blend and Mrs. Erdmann. I have a very high regard for both of them. And in my own opinion, what they have here in Section 8 is not the intent of what's been stated. I think what they had in mind was a situation where the Legislature passed the liquor tax, for example, and perhaps part of it was retained by the state and the rest of it went to the cities for the maintenance of their streets. We're doing that now, and it's working very well; and the people of the larger communities in this state are really appreciative of the action taken by the Legislature in the past to give us this much-needed money. And yet I must confess that this is a dangerous section. I would agree with the comments of Mr. Aronow and I would agree with the comments of Mr. Gysler that the small towns would look at this with alarm when it came up for passage. Speaking as a resident of a larger community in the state, I can tell you that the residents of those cities do not particularly want state aid. They want to run their cities by their own property tax, and to the best of their ability, they want to stay within it. But there are situations in taxation, such as the gas tax, where the money is used for the maintenance of the city streets; and justly so, because much of the gas is burned on city streets, in county, and of the large—in the large and small towns both, so that these sharing situations are fair enough. Now I would like to direct a question to the committee as a whole that's on this. We have revenue sharing now, in effect; we share lots of money with the state and the cities; and if we deleted this, what would prevent this process from continuing? I know of nothing in the Finance Article which we have passed that would prohibit it, and why don't we just delete it and keep the situation as it is? Perhaps Mrs. Erdmann would answer that for me.

CHAIRMAN MURRAY: Mrs. Erdmann.

DELEGATE ERDMANN: I am perfectly willing to move to delete it if it is necessary. I certainly don't want to get all of the rural areas upset over this. It was our intention to just be sure that we were in line to share federal revenue, and we wanted to reaffirm our ability legally to do what we've been doing illegally with the gasoline and the beer tax and all the rest for years. But I see your apprehension; it's well founded. But I would like to hear from Mr. McDonough before I make that motion. I think he should speak to the amendment as made.

CHAIRMAN MURRAY: The learned Mr. McDonough, now being present, is called upon. All of the ladies have been running around this hall and asking for you (Laughter); some have been over visiting with you; and now with all the suspension [suspense] ended, we seek your advice.

DELEGATE McDONOUGH: Well, I certainly appreciate it.

CHAIRMAN MURRAY: You're welcome.

DELEGATE McDONOUGH: I don't really think it makes any difference whether this section's in here or not. If there's any—and I've sat and talked to Tom Ask about it—If there's any apprehension about this section, we can delete it. And I then—therefore move, as a substitute motion for all motions, that Section 8 of this article be deleted.

CHAIRMAN MURRAY: Do you wish to speak further to it, Mr. McDonough? Or is—

DELEGATE McDONOUGH: I think it pretty well covers it, unless there's some other argument. There's—it's somewhat repetitious, and I don't think it's really needed. If it's going to create that type of problem, we can delete it.

CHAIRMAN MURRAY: Mr. Anderson.

DELEGATE O. ANDERSON: Mr. Chairman, may I speak on the motion?

CHAIRMAN MURRAY: Yes.

DELEGATE O. ANDERSON: I have here before me a sheet detailing statistics in the revenue sharing that's been going on in regard to gasoline tax revenue. And the necessity for the back-door method of sharing this gas tax revenue came through a court interpretation that I think was wrongly arrived at; but I have here, Chouteau County gets $32,784 a year in revenue sharing, but they have to kind of come in through the back door—you all know how they split this gas tax money—Fort Benton gets $10,260 a year revenue sharing on gas tax. It was the intention of the committee—I'm sorry, I don't have the figures on the beer tax, but I'd be glad to show them to Mr. Gysler as soon as I get them—It was the intention of the committee to make certain that some court interpretation coming out of no place, or out of the woodwork, like this one in regard to gas tax, come—came forth and would deny the cities and counties the right to share in revenue sharing developed some way or another. There was absolutely no thought that there would be any real or personal property tax taken into the state and then reallocated to the cities. We do not resist the amendment.

CHAIRMAN MURRAY: Now, excuse me, Mr. Anderson, but you have now confused the Chairman. You do not resist the motion to delete?

DELEGATE O. ANDERSON: (Inaudible)

CHAIRMAN MURRAY: Mr. Ask.

DELEGATE ASK: Mr. Chairman, as a member of the Local Government Committee, I don't resist the motion to delete. If it's going to create this kind of furor, let's get it out of there, because it really doesn't say that the Legislature should share revenue; it just says nothing prohibits it. If it's going to create any fears in the voters, as far as I'm concerned—I think the—probably the majority of the committee feel that way—let's just delete it and get it out of there, because I think they can do it under the other sections of Revenue and Finance anyway, so let's not put any more in here than we have to.

CHAIRMAN MURRAY: Okay, are you sure?
Mr. Champoux.

DELEGATE CHAMPOUX: Will Mr. McDonough rise for a few questions, please, sir?

CHAIRMAN MURRAY: Who?

DELEGATE CHAMPOUX: Mr. McDonough.

CHAIRMAN MURRAY: Mr. McDonough, will you yield?

DELEGATE McDONOUGH: Yes.

DELEGATE CHAMPOUX: Mr. McDonough, as a lawyer and a learned person in terms of local government units and so forth, does the phrase, in your mind, "local government unit"—or could it—include also school districts?

DELEGATE McDONOUGH: Well, not under the definition of Section 1 of this article, it could not.

DELEGATE CHAMPOUX: Yes, I remember that. All right. Is a school district considered to be a local political subdivision?

DELEGATE McDONOUGH: Well, it's a body politic incorporate. I suppose the Legislature, if it so wanted to, could make it a political subdivision.

DELEGATE CHAMPOUX: All right, what's the difference between a local political subdivision, then, and a local governmental unit, sir, in your mind?

DELEGATE McDONOUGH: Well, the local governmental unit is what is defined under this article, which is defined very broadly. A subdivision is something like a county, which is actually a subdivision of the state to carry out the administrative function of the state without having what you might call legislative or other types of powers of that type, more administrative than legislative or judicial.

DELEGATE CHAMPOUX: Thank you, sir. Mr. Chairman, may I speak to this now?

CHAIRMAN MURRAY: Mr. Champoux, you may speak.

DELEGATE CHAMPOUX: My concern here is, I know it's—the local government unit's limited in the front; however, I've seen statutes describing local government units or governmental units as school districts—described as school districts. And my fear here is that if we pass this with the Gysler amendment, and realizing the types of school financing that are possible in the future—that is to say, from the state and based upon the Revenue and Finance recommendations of the possibility of statewide property taxes—that under this provision the local school districts—there is a possibility, and I think it's open for interpretation, that the local school districts could be denied statewide property taxes or personal property taxes that are collected by the state. I am very, very dubious about this section. I think we're going to have to be really cautious here on this one. Thank you.

CHAIRMAN MURRAY: Mr. Champoux, for this—for my edification, are you in favor of Mr. McDonough's motion to delete?

DELEGATE CHAMPOUX: You will find out when I vote, sir. (Laughter)

CHAIRMAN MURRAY: That's for sure.
Mrs. Babcock.

DELEGATE BABCOCK: Mr. Chairman, I don't know if this is out of order, but could we have an estimated time of adjournment?

CHAIRMAN MURRAY: Let's finish this section, and then I'll let you know what I have in mind.
Mrs. Blend.

DELEGATE BLEND: Mr. Chairman, for the purpose of establishing the committee's intent in inserting Section—what is it—8, it was the intent of our committee to enable each individual local government unit to share in funds that might be available from the state. I would like it clearly understood there is no intent for local entities to share in each others tax money. It is to enable each of us to obtain money from the state to help us out locally, and I think that the intent of this article is completely different from the amendment and from the fears that have been expressed here. Thank you, Mr. Chairman.

CHAIRMAN MURRAY: Mr. Monroe.

DELEGATE MONROE: Mr. President [Chairman], I certainly wholeheartedly agree with the majority report on this revenue sharing. I would oppose the motion to delete and the Gysler amendment to this particular section. I think, as a young person in my particular community, I've watched a lot of tax dollars come from Montana residents, for example, to our state and even to our federal government, that has not returned. And as a young adult who is going to be living a good share of my lifetime in this state, I would like to see it where that the communities and local government units can share of state funds and federal funds. And I urge this body to take this progressive move, support the majority report, defeat the motion to delete and defeat the amendment of Mr. Gysler, and stick with the majority report.

CHAIRMAN MURRAY: Mr. Johnson.

DELEGATE JOHNSON: Mr. Chairman. I support the motion to delete. I do not have any further words of wisdom.

CHAIRMAN MURRAY: Mr. Brown.

DELEGATE BROWN: Mr. Chairman, I support the motion to delete. If we don't delete this and then get amendments into a technical tax field, we'll be trying to do something in a few minutes which may affect every local unit of government; so let's support the committee now. They want to delete it, and I believe we could vote on that and then go on if we don't delete it.

CHAIRMAN MURRAY: The question now arises on the motion—substitute motion of Mr. McDonough that we delete Section 8. As many as are in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN MURRAY: Opposed, say No.

DELEGATES: No.

CHAIRMAN MURRAY: The Ayes have it, and so ordered.
Mr. Nutting.

DELEGATE NUTTING: Mr. Chairman, I move the committee arise and report progress and beg leave to sit again.

CHAIRMAN MURRAY: You've heard the motion of Mr. Nutting that the committee rise, report progress, and beg leave to sit again. As many as are in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN MURRAY: Those opposed, say No.
(No response)

CHAIRMAN MURRAY: The Ayes have it, and so ordered. If all of you will rest quietly for a few minutes we'll have this report out, and we do not intend to come back this evening. We made very good progress on this.

ACTING PRESIDENT MURRAY: The clerk will read the Committee of the Whole report.

CLERK SMITH: "March 16th, 1972. Mr. President: We, your Committee of the Whole, having had under consideration Report Number 11 of the Committee on Local Government, recommend as follows: that the committee rise and report progress and beg leave to sit again. Signed: Murray, Chairman."

ACTING PRESIDENT MURRAY: Is there any objection to the—not reading the report in its entirety? There be no objection?

DELEGATES: No.

ACTING PRESIDENT MURRAY: Mr. Nutting.

DELEGATE NUTTING: Mr. Chairman [President], I move we adopt the committee report.

ACTING PRESIDENT MURRAY: You've heard the motion of Mr. Nutting. As many are in favor, say Aye.

DELEGATES: Aye.

ACTING PRESIDENT MURRAY: Those opposed, say No.
(No response)

ACTING PRESIDENT MURRAY: Ayes have it, and so ordered. We'll be on Order of Business Number 11. Any announcements?
Mrs. Babcock.

DELEGATE BABCOCK: Mr. Chairman. I would like to report to this body that, based on tours scheduled and estimated numbers of—in groups that arrived without being scheduled, that we've had 6,165 persons on conducted tours. I would like to also ask, if any of the delegates would like to see the slide presentation, we would set up a special showing tomorrow at 12:15. In addition, I have had a request from one of the delegates to have copies of these slides; and if at that time, after you see the slide program, if you'd like copies, I would also look into that further. Could I have a show of hands how many might want to see the slides? All right, if it's all right with the Convention, I'll set up a program tomorrow at 12:15, and lots of you are in the presentation. Thank you very much.

ACTING PRESIDENT MURRAY: I guess it's the consensus of the—

DELEGATE BABCOCK: Excuse me—it will be in the Senate chambers at 12:15.

ACTING PRESIDENT MURRAY: That's fine.
Mr. Furlong.

DELEGATE FURLONG: Mr. President, fellow delegates. I'd like to take just a minute of your time to call attention to a poll that you should have found on your desks, distributed this afternoon. The poll has been prepared by Randy Gray, one of our interns from the University of Montana. I told Randy I would ask the delegates to please cooperate and fill in the poll for the young man. It's part of a project he's working on in his further studies at the University of Montana. I would like to tell you that Randy had this duplicated and run off at his own expense. He has spent considerable time on it; he worked real hard for the Revenue and Finance Committee, and I would like to encourage your support of his poll. We've got to get these kids graduated. Thank you.

ACTING PRESIDENT MURRAY: Any further announcements? (No response) Remember Rules Committee meeting at 8:15 in the morning, on the Torrey Johnson resolution. We'll—if there's no objection, we will revert to Order of Business Number 1 for just a moment, please. The clerk has a report that he would like to read.

CLERK HANSON: "Mr. Chairman. We, the Committee on Style, Drafting, Transition and Submission, transmit revisions of the Public Health, Welfare, Labor and Industry Article Number 9 for consideration of the Convention. Signed: Schiltz, Chairman."

ACTING PRESIDENT MURRAY: If there is no objection, we will revert to Order of Business Number 11.
Mr. Nutting.

DELEGATE NUTTING: Mr. Chairman, I move that we adjourn until 9:00 a.m., March 17th.

ACTING PRESIDENT MURRAY: The question now arises on the motion of Mr. Nutting to adjourn till 9:00 a.m. tomorrow, which is March 17th. As many as are in favor, say Aye.

DELEGATES: Aye.

ACTING PRESIDENT MURRAY: Those opposed, say No.
(No response)

ACTING PRESIDENT MURRAY: The Ayes have it, and so ordered.

(The Convention adjourned at 6:20 p.m.)

March 17, 1972
9:00 a.m.

Forty-Eighth Day

Convention Hall
Helena, Montana

PRESIDENT GRAYBILL: Sure and begorra, it's time to start the Convention again. (Laughter - Applause) If you'll all stand, Delegate O'Scanlin will give us the invocation. (Laughter)

DELEGATE SCANLIN: It is my privilege, this morning, to have with me the folks with whom I've been staying while in Helena, and Marge Fowler will sing for us "The Lord's Prayer". Let us be in the spirit of prayer.

(Miss Fowler sang "The Lord's Prayer")

PRESIDENT GRAYBILL: Thank you very much for that very lovely song. Very well, we'll take attendance today by voting Aye on the voting machines.

CLERK HANSON: Mr. President, may Delegates Warden, Harlow and Holland be excused, please?

PRESIDENT GRAYBILL: Very well.

CLERK HANSON: Delegate Berg, Delegate Brown, Delegate Cain, Delegate Drum, Delegate Etchart, Delegate Holland—Delegate James.

PRESIDENT GRAYBILL: List the absences again.

CLERK HANSON: Delegate Brown, Delegate Drum. Kelleher is voting No.

PRESIDENT GRAYBILL: Very well, take the ballot. He's here.

Aasheim	Present
Anderson, J.	Present
Anderson, O.	Present
Arbanas	Present
Arness	Present
Aronow	Present
Artz	Present
Ask	Present
Babcock	Present
Barnard	Present
Bates	Present
Belcher	Present
Berg	Present
Berthelson	Present
Blaylock	Present
Blend	Present
Bowman	Present
Brazier	Present
Brown	Absent
Bugbee	Present
Burkhardt	Present
Cain	Present
Campbell	Present
Cate	Present
Champoux	Present
Choate	Present
Conover	Present
Cross	Present
Dahood	Present
Davis	Present
Delaney	Present
Driscoll	Present
Drum	Absent
Eck	Present
Erdmann	Present
Eskildsen	Present
Etchart	Present
Felt	Present
Foster	Present
Furlong	Present
Garlington	Present
Gysler	Present
Habedank	Present
Hanson, R.S.	Present
Hanson, R.	Present
Harbaugh	Present
Harlow	Excused
Harper	Present
Harrington	Present
Heliker	Present
Holland	Excused
Jacobsen	Present
James	Present
Johnson	Present
Joyce	Present
Kamhoot	Present
Kelleher	Present
Leuthold	Present
Loendorf	Present
Lorello	Present
Mahoney	Present
Mansfield	Present
Martin	Present
McCarvel	Present
McDonough	Present
McKeon	Present
McNeil	Present
Melvin	Present
Monroe	Present
Murray	Present
Noble	Present
Nutting	Present

Payne	Present
Pemberton	Present
Rebal	Present
Reichert	Present
Robinson	Present
Roeder	Present
Rollins	Present
Romney	Present
Rygg	Present
Scanlin	Present
Schiltz	Present
Siderius	Present
Simon	Present
Skari	Present
Sparks	Present
Speer	Present
Studer	Present
Sullivan	Present
Swanberg	Present
Toole	Present
Van Buskirk	Present
Vermillion	Present
Wagner	Present
Ward	Present
Warden	Excused
Wilson	Present
Woodmansey	Present
Mr. Chairman	Present

CLERK HANSON: Mr. President, 95 delegates present, 3 excused, 2 absent.

PRESIDENT GRAYBILL: Very well. Order of Business Number 1, Reports of Standing Committees.

CLERK HANSON: None, sir.

PRESIDENT GRAYBILL: Order of Business Number 2, Reports of Select Committees.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number 3, Communications.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number 4, Introduction.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number 5, Final Consideration.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number 6, Adoption.

CLERK HANSON: None, sir.

PRESIDENT GRAYBILL: Order of Business Number 7, Motions and Resolutions. The Chair would like to announce that the Rules Committee met and will meet again on Mr. Johnson's resolution, and it is my understanding that it'll be out tomorrow morning. Are there other motions or resolutions?

CLERK HANSON: None, sir.

PRESIDENT GRAYBILL: Order of Business Number 8, Unfinished Business. Ladies and Gentlemen, today is the day that I report again on the budget; and I will do that, but I'm not prepared to do it yet. I'm still working on it, but I will do it before the day is finished, as far as I know. So, if we'll pass Order of Business Number 8. Order of Business Number 9, Special Orders.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Without objection, the Chair would pass for a moment to Order of Business Number 11 to make a couple of announcements that will help you plan your schedules. On adjournment this morning—on recess this morning—that is, at 11:45, 11:30, whenever we get through, or 12—I'd like to have a meeting of the committee chairmen—and I think probably we ought to have that—is the Legislative room upstairs available? Let's have it up in the Legislative Committee room. And then, on adjournment tonight, whenever that is, I'd like the Voter Education Committee—that's the new committee we appointed yesterday—the Voter Education Committee to meet, on adjournment tonight. And Mrs. Babcock informs me that she is prepared to show the slide presentation to any delegates that are interested, about noon, but she can do that shortly after adjournment, whenever that may be, this morning. Very well, we'll go back on Order of Business Number 10. May I make, also, a couple of observations there? We'll finish up Local Government this morning; and when we finish that—if we finished it this morning—we will also consider Style and Drafting's Proposal Number 13 on the ordinances, if you want to be prepared on that. If it's all right with everyone, we will pass Education until after lunch; but presuming that we might finish Local business this morning, we will take up Education on Style and Drafting after lunch. And in a moment you are going to get—oh, I guess you've already gotten—Public Health on your desks. If we finish Education this morning, it would be the Chair's intention to move to suspend the rules—the 48-hour rule—to consider Public Health this afternoon on Style and Drafting. If we can get these Style and Drafting reports out of the way today, it will make quite a difference to the Style and Drafting Committee's ability to handle the Constitution on the typewriters. So the plan is to handle Local Government this morning and the ordinances this morning and then recess this morning for these committee meetings.

Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. President, I move the Convention resolve itself into Committee of the Whole for the purpose of handling business under General Orders.

PRESIDENT GRAYBILL: The motion is to resolve ourselves into Committee of the Whole. All in favor, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No. (No response)

PRESIDENT GRAYBILL: So ordered.

(Convention resolved into Committee of the Whole, Mr. Graybill in Chair)

CHAIRMAN GRAYBILL: Mr. Clerk.

CLERK HANSON: "Style and Drafting Committee Proposal Number 10, Education, having been duplicated and placed on the delegates' desks on the 15th day of March, 1972, at 12:00 noon, will, at 12:00 this day be in compliance with Rule 23 of the Montana Constitutional Convention rules. March 17, 1972. The following committee proposals are now on general orders: Local Government; General Government; Style and Drafting 10, Education; Style and Drafting Number 9, Public Health; Style and Drafting Proposal Number 13." Mr. Chairman.

CHAIRMAN GRAYBILL: Very well, we're ready to go to Local Government; and the Chair, recognizing when he has a good thing, is going to have Marshall Murray finish that one up. We're doing very well on that, and I'm very pleased. So, Mr. Murray, will you take the Chair.

(Delegate Marshall Murray assumed chairmanship of the Committee of the Whole)

CHAIRMAN MURRAY: My records indicate that the committee finished the first eight sections last evening, and we should start with Section 9. The clerk will read Section 9.

CLERK HANSON: "Section 9. Initiative and referendum. The initiative and referendum powers reserved to the people by the Constitution shall be extended by law to the qualified voters of each local government unit." Mr. Chairman, Section 9.

CHAIRMAN MURRAY: Mr. Simon.

DELEGATE SIMON: Mr. Chairman, fellow delegates. I move that when this committee does arise and report, after having under consideration Section 9 of Proposal Number 11, it recommends that the same be adopted. Thank you, Mr. Chairman.

CHAIRMAN MURRAY: Mr. Simon.

DELEGATE SIMON: Mr. Chairman, the Local Government Article, as we told you yesterday, would like to have one single document, as near as possible as we can, and with that, then, we would like to have the initiative and referendum section include this part. On page 30, the comments that you have before you will be brief. The committee believes it is essential that local residents have the power of initiative and referendum, particularly in view of the broad self-government powers offered in this proposal. This committee also believes that the proper place to assure these people's powers is in the Local Government Article. Specific provisions concerning petitions requirements, however, should be left to statutory law, where they can be easily reached if change is needed. Now, this initiative and referendum was not dealt with in the general government article and will be dealt with when the general article comes up. A few other little minor things that we would like to talk about and give you a little emphasis on—Section 9 does one thing; it directs the Legislature to extend the initiative and referendum powers to local government units, such as cities, towns and counties. The section itself does not set specific limits under which the initiative and referendum should be enacted locally. These details—such as the number of signers on the initiative petition—are left to statutory law. It is also important to stress that the General Government Committee report does not provide for local initiative referendum. Therefore, this proposed section is not duplicated elsewhere in this Constitution. Initiative and referendum are not new in Montana, particularly on the local—city level. Such provisions already are part of the statutory law for city and town ordinance in the *Revised Codes of Montana* of 1947. It'll be unnecessary to give you all the sections. In addition, certain other county matters, such as debt, must be submitted to the vote for the voters' approval. It is important that Section 9 of the committee's proposal would assure that this power be provided for people on the local level. It is particularly important that it be provided, in view of the fact that local government units will be strengthened, in terms of power, under the committee proposal. The initiative and referendum offer another check on this power and are of such importance that they should receive constitutional guarantee. Thank you, Mr. Chairman.

CHAIRMAN MURRAY: I'll call for discussion of Section 9 at this time. Any discussion?

(No response)

CHAIRMAN MURRAY: Members of the Committee, the question now arises on the motion of Delegate Simon that when this committee does rise and report, after having had under consideration Section 9 of committee proposal 11 on Local Government, that the same be adopted. As many as are in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN MURRAY: Those opposed, say No.

(No response)

CHAIRMAN MURRAY: The Ayes have it, and so ordered. The clerk will read Section 10.

CLERK HANSON: "Section 10. Recall. All elected public officials of the local government units are subject to recall by the voters of the unit from which elected. Procedures for recall shall be prescribed by law." Mr. Chairman, Section 10.

CHAIRMAN MURRAY: Mr. Arness.

DELEGATE ARNESS: Mr. Chairman, I move that when this committee does rise and report, after having had under consideration Section 10 of Proposal Number 11, it recommends that the same be adopted.

CHAIRMAN MURRAY: Mr. Arness.

DELEGATE ARNESS: Mr. Chairman, at least 13 state constitutions provide for recall of all elected officials, and I think that the gloss which the delegates have before them contains a listing of that. The possibility for recall of officials on the local level is also nothing new in Montana. The provisions of existing Section 11-721.1 provide for recall of officials at the municipal level. In addition to that, in the event that consolidation occurs, the Commissioners of the consolidated unit may be recalled under provisions of existing statutes—let's see, Section eleven thirty-one, thirty-two and following sections provide for that procedure. Under our existing statutory law, however, the county officials themselves are not subject to recall. This provision would enable the recall of County Commissioners, as well as Mayors or County Commissioners of consolidated counties-cities, such as we presently have. This is not a duplication of the general government article. The general government article provides that recall may be had of certain elected state officials; however, it also provides a standard whereby the recall can be effected and provides that 25 percent of the—that a petition must be signed by 25 percent of the electors in the area, as determined by the last election for Governor. Since some of the local government units in which recall could be effected do not conform to the voting precincts, it would be impossible for a—or it would be impossible to determine under the local government—or the general government provision, rather—whether the required number of petitioners had signed a petition so as to recall, for example, a Mayor, in certain instances. If recall is desired, therefore, it does appear that it is necessary to have a provision for recall in the local government article. It's doubtful that county officials could be recalled at the present time. In order to make it possible to recall the Commissioners of unconsolidated counties as well as consolidated counties and in order to make it possible to recall other county officials, as we can now recall city officials, it would be necessary to adopt this provision. Thank you, Mr. Chairman.

CHAIRMAN MURRAY: Mr. Kelleher, the Chair has an amendment which you have offered, and it treats it as a substitute motion. And I would like to have the clerk read it at this time.

CLERK HANSON: "Mr. Chairman. I move, as a substitute motion, to amend Section 10 of the Local Government Committee proposal, being page 5, lines 24 through 27, by deleting it in its entirety. Signed: Kelleher." Mr. Chairman.

CHAIRMAN MURRAY: Mr. Kelleher.

DELEGATE KELLEHER: Mr. Chairman, would Mr. Arness yield to a question, please?

CHAIRMAN MURRAY: Mr. Arness, will you yield?

DELEGATE ARNESS: (Inaudible)

CHAIRMAN MURRAY: He yields, Mr. Kelleher.

DELEGATE KELLEHER: Franklin, on the bottom of page 30 and the top of page 31 of your comments regarding recall, you state that the requirements should be of sufficient severity to eliminate frivolous and repeated recall elections. And you state there that your committee had some concern about this, and I am concerned, too. I wonder how you plan, through the recall, to eliminate frivolous and repeated recall elections, which I understand was once a problem in North Dakota.

DELEGATE ARNESS: I'm not sure that it really was a problem. So far as I know, this—these recall provisions have—presently exist in at least 13 states as a matter—as a constitutional matter, and there are a number of others where recall is allowed, including Montana at the present time. There has been no frivolous use of our recall provision, so far as I know; and, in fact, so far as I know, it hasn't even been used. In North Dakota, it's true that one of their governors was recalled. I don't know whether it was justified or not, but I assume that, it having occurred, there was some basis for it. I only know of one instance where there was a recall. The recall has been used relatively infrequently, despite the fact that it's been on the books for a long, long time. According to the statistics we had, there are 1,510 cities that answered the survey that had recall provisions available to them, and out of those cities, they—recall had been used only 59 times in—over a 4-year period, and it had been successful 25 out of those 59 times. I—Under our present law, it takes 25 percent of the registered electors, as determined by the vote at the last municipal elections, in order to stage a recall, and I submit that 25 percent is a large number. I don't think that the recall provisions have been abused, and I'm not aware of any instances where they have. I don't think that it's true that they were abused in North Dakota. North Dakota still has the recall provisions, and I notice that the recall provision is retained in the draft of proposed North Dakota Constitution.

CHAIRMAN MURRAY: Mr. Kelleher.

DELEGATE KELLEHER: Mr. Chairman. I still didn't quite get an answer, I don't think, to how we are going to eliminate frivolous and repeated recall elections. Eight states that have the recall provision provide for all of their officials, and I realize we're just talking about local government, but we're going to come up to general government on this matter—the same matter tomorrow. Eight states, the provision applies to all elected state officials. In Idaho, Michigan, Louisiana and Washington, they exempt all or some judicial officers and generally a recall petition may not be filed against an official during the first 6 months of his term; Wisconsin allows it after the first year. Now, obviously, one of the reasons why they let the officeholders stay there for a small—at least 6 months or a year, I assume, is to find out whether he's going to be doing his job or what, but I call to the attention of the committee that aldermen are elected every 2 years, and if we did allow recall we would be having elections very often. Now, some of the reasons—Or could have elections if we recalled a man. My principal objection to recall is that it's not done on the merits. I could start a recall petition for any reason. In fact, I could go down to West Park Plaza and get people to sign—get a few thousand signatures on a petition to get rid of an alderman, I think, in 2 days' time; people will sign petitions without even knowing what's on them. And these elections cost an awful lot of money, and I submit—how would you like it if there was somebody out here in the lobby waving around a recall petition, and every time you threatened to vote for or against something that they didn't like, they'd say, "Well, I'm going to go file this recall and we're going to get you out of here"? In fact, can you imagine if somebody had—what this Convention would be like if somebody had recalled Kelleher from Yellowstone County? (Laughter) In all—

CHAIRMAN MURRAY: Let's keep a little order in the assembly here. Mr. Kelleher, you may try and proceed.

DELEGATE KELLEHER: In all states, including our state, I call your attention to the fact that we do have impeachment proceedings and if a public officer is convicted of a—I mean, commits—charged with commission of a felony or even a misdemeanor, he can be charged like any other citizen in the courts. Improper conduct by public officials is grounds for removal by judicial, legislative, or sometimes gubernatorial action. If a member of the Legislature or the City Council can be expelled—in fact, down in Billings, we did expel a City Council member, and his ward immediately reelected him. It—Finally, it's a provision as a tool for well-organized groups and for political recrimination. I submit, Mr. Chairman, that once a man or woman has been elected, let them do their job, and without threat. We've had threats to this Convention and we know how we've all reacted to those threats, and I say that the recall is the most vicious threat of all, and it is the weapon of the anarchist. Finally, I see no reason why this matter couldn't be left to the Legislature. It's really not necessary to put it in the Constitution for—what—80 percent of the states don't have it in their constitution. If they want to put it in—if the Legislature wants to put it into laws, all right. So I move to delete the entire section.

CHAIRMAN MURRAY: Mr. Loendorf.

DELEGATE LOENDORF: Mr. Chairman, I can't miss what might be my only opportunity to support something proposed by Mr. Kelleher. (Laughter) Mr. Chairman, I would support Mr. Kelleher's motion to delete, for these reasons. First, I note that it was not very popular with the committee; it passed there by a six-to-four vote. Secondly, I think it goes against the philosophy espoused by the committee in this particular article; and that philosophy seems to be: let the people of the various local governments choose the type of government they want, the officials they want to run that government, and provide for their election or appointment. Requiring recall elections appears to me to be making a choice for them that we are not required to make. Why constitutionalize this? Why not let them make this choice themselves? Regarding the argument in General Government, it seems to me there is a possible conflict between the two articles. The General Government proposed section at this time provides for the recall of all elected officials of the state and its political subdivisions and then sets forth the procedure. I think maybe if we do adopt this provision in Local Government, they'll have to follow the procedures set forth in the General Government article anyway. However, when we get to that section, I'm at least going to move to amend it at that time. And regarding the question whether we have to have something in the Constitution in order to have recall, I think not. Under the present Constitution, I would agree we would regarding county officials, because their term of office is set forth in the Constitution, and I think it would be an attempt to amend the statute—or that Constitution by statutory law to attempt to shorten that term by a recall provision. But looking at the general government article, they leave the term of office to the people to be set by them, the people of that local government unit. Therefore, I think we should allow the people to choose whether they want to shorten those terms by recall elections. Thank you, Mr. Chairman.

CHAIRMAN MURRAY: Mr. Arness.

DELEGATE ARNESS: Mr. Chairman, I think that, probably, the point was missed here on the difference between this and the Local Government article. The point is that if we adopt the General Government article on recall, that it's not possible to implement it in the case it was to be used for a public official. The General Government article on recall provides a percentage that is to appear on the petition—and I don't have that article right here, right in front of me—then it provides the machinery by which the determination is to be made as to whether or not you have a sufficient number of signers; and that determination is based upon the number of votes cast in the preceding gubernatorial election, based upon the precinct breakdown. Now, the precinct breakdown is not going to correspond to all the local governmental units that we have, so there may be—there are a number of situations where it is possible that an elected local government official would not be elected on the—in an area where it could be determined how many of the people who voted for him had voted also for the Governor. You've—there are a number of cities where the precinct lines don't follow exactly the city boundaries. It's also possible, as been pointed out earlier, that at some time a school district may become a local government unit, and, again, the boundaries of the school district are not going to conform to the precinct boundaries. In those cases, how do you determine who—or how many voters in the area where that local government official is elected did, in fact, vote for the Governor at the next preceding election? You can't do it. So, if we're going to have it—if we're going to have a machinery for recalling these people, and I—it's up to the Convention, of course, whether they think recall is a good idea or not—but if we're going to have it for these people, then we have to have something that makes it possible to do it. The General Government article would cut off Local Government officials for the simple reason that it provides the mechanics that do not conform to the realities of the local government situation. So if you don't want local—recall on the local government level, fine, but that is the problem. Now, these two articles are in conflict. We can resolve the conflict by making one apply to state offices and one apply to local offices and avoiding it that way, but if we want to make it general, then we have to have some other standard than the one that's set up in the general article. I just want to point that out; that's all. It—I suppose that it's entirely up to the Convention whether they think, like Mr. Kelleher, that this will result in anarchy—I think that's rather an unusual idea of recall—but if you think that way, that's fine; but we can't have it both ways.

CHAIRMAN MURRAY: Mr. Harper.

DELEGATE HARPER: I think Mr. Arness is right in that he implied the issue is whether or not we want it. The Legislative Committee talked about recall quite at length. We tried to put down on one side what the advantages of recall are and on the other side the disadvantages. It was our rather studied opinion that the disadvantages outweighed the advantages, and the one that is uppermost in my mind is—when you raise the question as what will recall be used for—as Mr. Kelleher pointed out, there are several provisions for removing a person from office if he really is involved in practices that are contrary to the law. If not, then the question becomes whether or not you disagree with his approach or his political philosophy or the way he's voting. Now, we have a recall provision—it's called the election—and every couple of years or so, the people elect and there's a chance—a real honest chance at recall, in a sense, of an elected official if he chooses to run again; he may be defeated. Let's put 25 percent—let's take this into a little district. Twenty-five percent of the voters might be what? Well, we discovered that some societies—I forget—there was a Jack Ash Society or some name—it was some tree—

CHAIRMAN MURRAY: You're going to have to speak a little clearer, Mr. Harper. (Laughter)

DELEGATE HARPER: —and these people were pushing very much for this. I think they saw this as a way of holding a club over the head of an elected representative. It could be that, let's say, a union or any other sizable segment of people in a particular locality could say, as a sort of a club, behind the door, to any elected official, "Now, you know, we have more than 25 percent of the voters, and if you don't go along with our line, then we're going to have you running again". And when we weighed the advantages against the disadvantages, we thought our straight electoral system, with rather brief timespans between elections, with all the safeguards of law that we have put around it already, was perfectly adequate, and we didn't want to get into the possibilities of having happen what Idaho had with three legislators recalled from one district because the legislators voted to raise their salaries, and so forth.

CHAIRMAN MURRAY: Mr. Martin.

DELEGATE MARTIN: Mr. Chairman, I just want to put in a disclaimer. Having introduced this recall provision, I certainly am not a member of the Jack Ash (Laughter) committee (Laughter) or society and want no part in it. (Laughter) And I think that we of the Convention have a short time and perhaps the best thing to do is to forget about recall.

CHAIRMAN MURRAY: Mrs. Bowman.

DELEGATE BOWMAN: Mr. Chairman, I'd just like to point out that the Legislature in the last session provided that subsequent aldermanic and mayoral races will be every 4 years now, and not every 2, and County Commissioners are elected every 6 years. So you don't have only a 2-year span in the case of Mayors and Aldermen.

CHAIRMAN MURRAY: Mr. Jacobsen.

DELEGATE JACOBSEN: Mr. Chairman and fellow delegates. There is such a thing, and we have had it at times in my town of Whitefish, where Aldermen are elected and they are absent more than our United States Senators. An Alderman is not any good to any citizen or any precinct unless he attends the meetings, and I think that the majority report here—this could be one way of taking that man or woman out of office, just because they are not doing the job that we elected them to do, and I would hope that you would support the majority report.

CHAIRMAN MURRAY: Mr. Romney.

DELEGATE ROMNEY: Mr. Chairman, I support the motion to delete. I've been attending council meetings for almost half a century, and the people who are attending the meetings most of the time are the Mayor and the Aldermen. Unfortunately, the public is so apathetic that it normally doesn't attend the council meetings unless it wants something, and as soon as it gets what it wants or has a request turned down, it packs its tent and silently steals away. I think that in more than 80 years of application of the present method of election of county and municipal officers, we've got along famously without having a recall provision in the Constitution, and I think we can get along until we have another constitutional convention 20 years hence, at which time I will take the matter up again and be against it. (Laughter)

CHAIRMAN MURRAY: Mr. Siderius.

DELEGATE SIDERIUS: Mr. Chairman, I support the motion to delete this, because you take, for instance—like on a local school board, very few people in that school board could create a large—a big hassle just over a little incident that didn't really amount to a damn by trying to recall a delegate—or a trustee—and I—therefore I support the amendment to delete that.

CHAIRMAN MURRAY: Mr. Foster.

DELEGATE FOSTER: Mr. Chairman and fellow delegates, I support the motion to delete. Originally, I felt that the idea of recall was a very good idea for the same—some of the same reasons that the committee has presented here. However, I have thought about this from the beginning of the Convention, and it's my opinion that the dangers outweigh the advantages and, in fact, what we're doing is saying that the electorate, once they choose, has a chance to decide again. And I think the electorate should be aware of the fact that when they elect a public official, it's an extremely important step and they should take their vote very seriously and they should do everything in their power to define the advantages of the candidate they're voting for. And I think it's a very real possibility that a 25-percent minority, if it was well organized, was extremely militant or active, could, in fact, use this minority position as a club over the elected official; and I think the motion to delete is well founded and I support it. Thank you, Mr. Chairman.

CHAIRMAN MURRAY: Mr. Arness.

DELEGATE ARNESS: Mr. Chairman, the—I only want to point out to the delegation, without taking any particular side on this one way or another, that at this point, the Convention is facing a problem as far as uniformity of application of the recall provisions are concerned. Now, if you strike this recall provision out of the Local Government article, we'll still have Section 10 in the General Government article to consider. And if you approve that section, having struck this section out, you may have and probably will be creating a situation where you can recall all of the state officers and some of the local officials but not all of the local officials. Now, if that's the situation that you want, that's fine. If you, on the other hand, have determined, at this point, that you think that recall is a bad idea generally and you're going to strike recall out of this provision and out of the general article, that's fine and there will be no problems. But I would like to avoid getting into the situation where we get into Section 10 in General Government and then discover that we ought to go back here and reconsider this section in this article that's now before us. I think that we should be aware that we will have a problem, as far as the uniform application of these provisions, when we get to that point. If we want uniformity, then we should either approve both these sections or disapprove both these sections. If, on the other hand, we want to discriminate against some of our officials and leave them without recall provisions while we can recall others, then, of course, I suppose we can go either way. But I think that we should bear that in mind—that we've got the possibility of an inconsistency in our situation. We do have an inconsistency now. Mr. Romney mentioned that we've gotten along without recall, and I think maybe he meant just in the Constitution—or maybe he said that—but we've had recall for our municipal officers and for certain of our other local officials since 1911, and that's quite a while, so far as I know, without any abuses. We have definitely had recall for our municipal officers for the last several years. We have existing statutory provisions that provide for recall of these local officials, as Mr. Kelleher mentioned; one of the aldermen in Billings was recalled. We can't recall our county officials at the present time. We can recall our local Mayors and Councilmen. We've got an apparent anomaly right there in our present local government laws. The question is, then, whether we want to continue that or not. It may be the sense of this Convention that we just don't want recall, but we should bear in mind that if we strike this provision out, we probably ought to strike it out of the General Government Article as well. Thank you, Mr. Chairman.

CHAIRMAN MURRAY: Mr. Anderson.

DELEGATE OSCAR ANDERSON: I'd like to call the attention to the delegates—I have here a book, and records are real hard to come by in regard to cities—but in the Western cities in the last 4 years, there were 22 actions for recall, of which 11 were successful. I think this disputes the frivolity of the recall procedure. Now, I'd also like to call your attention to our own actions here. We're actually using the recall procedures right here ourselves. I wonder how many times that we have acted to reconsider our own actions right here. I think this is a fundamental right that the voters should have in their local government areas. We've been very conscious of not denying rights to very, very many groups of people and segments of our society; and I think the fact that, if we took this away and there would be no recall rights to the voters, we would be denying them a fundamental right that they should be able to exercise; and I oppose the motion to delete.

CHAIRMAN MURRAY: Mr. Kelleher, would you like to close? It appears that there's no further debate.

DELEGATE KELLEHER: I just notice that the Chairman of that committee voted No on Section 10 in the roll call on page 40. That's all I have to say, Mr. Chairman.

CHAIRMAN MURRAY: Okay. The question now arises—have you closed?

DELEGATE KELLEHER: I have.

CHAIRMAN MURRAY: You are closed. Okay.

DELEGATE ROMNEY: Roll call.

CHAIRMAN MURRAY: Roll call? Okay. The question now arises on the substitute motion by Mr. Kelleher to delete Section 10. As many as are in favor of the motion, vote Green, I guess (Laughter) and those opposed, vote Red. Has every delegate voted?

(No response)

CHAIRMAN MURRAY: Does any delegate wish to change his vote?

(No response)

CHAIRMAN MURRAY: The vote will now be closed. The clerk will take the vote.

Aasheim	Aye
Anderson, J.	Nay
Anderson, O.	Nay
Arbanas	Nay
Arness	Nay
Aronow	Nay
Artz	Aye
Ask	Nay
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Nay
Berg	Aye
Berthelson	Nay
Blaylock	Aye
Blend	Nay
Bowman	Nay
Brazier	Nay
Brown	Absent
Bugbee	Aye
Burkhardt	Aye
Cain	Nay
Campbell	Aye
Cate	Absent
Champoux	Absent
Choate	Aye
Conover	Aye
Cross	Nay
Dahood	Absent
Davis	Aye
Delaney	Nay
Driscoll	Absent
Drum	Absent
Eck	Nay
Erdmann	Nay
Eskildsen	Aye
Etchart	Aye
Felt	Absent
Foster	Aye
Furlong	Nay
Garlington	Aye
Graybill	Absent
Gysler	Nay
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Excused
Harper	Aye
Harrington	Aye
Heliker	Nay
Holland	Excused
Jacobsen	Nay
James	Nay
Johnson	Aye
Joyce	Aye
Kamhoot	Nay
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Absent
Mahoney	Nay

Mansfield	Nay
Martin	Nay
McCarvel	Aye
McDonough	Absent
McKeon	Absent
McNeil	Aye
Melvin	Aye
Monroe	Nay
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Absent
Reichert	Aye
Robinson	Nay
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Nay
Scanlin	Nay
Schiltz	Absent
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Nay
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Absent
Van Buskirk	Absent
Vermillion	Nay
Wagner	Absent
Ward	Absent
Warden	Excused
Wilson	Aye
Woodmansey	Aye
Chairman Murray	Aye

CLERK HANSON: Mr. Chairman, 49 delegates voting Aye, 31 voting No.

CHAIRMAN MURRAY: 49 delegates having voted Aye and 31 voted No, the motion is carried and Section 10 has been deleted in its entirety. Section 11—the clerk will read Section 11.

CLERK HANSON: "Section 11. Voter review of local government. The Legislature shall, within 4 hours—4 years of the adoption of this Constitution, provide for procedures by which each local government unit, either separately or jointly, shall review the government structure of the local unit or joint unit and shall submit one alternative form of government to the voters at the next general or special election. The Legislature shall provide for a review procedure each 10 years after the first election." Mr. Chairman, Section 11.

CHAIRMAN MURRAY: Mr. Ask.

DELEGATE ASK: Mr. Chairman, I move that when this committee does arise and report, after having under—had under consideration Section 11 of proposed—Proposal Number 11, it recommends that the same be adopted.

Mr. Chairman.

CHAIRMAN MURRAY: Mr. Ask.

DELEGATE ASK: Fellow delegates, this Section 11, we believe, is the key to the whole Local Government Article. You've heard many times, everyone complains about local government but nothing is ever done about it. We feel, with this section, that something will have to be done about it and, in other words, this is the start to the reform in local governments if reform is needed in any particular area. Now, we've talked in our committee and personally to many officials of cities and towns and have posed the question as why they hadn't tried to improve their local government units, and many of them say that they have tried and they've had so much heat over it, you might say, that they have just dropped the idea and they just don't do anything. And many of them were asked, "If you were in a position where you had to, so often at least, look at your local government, would you do this?"—and they thought this was a good idea. Now, if you recall, Section 7 of our present Constitution, which provides for all types of local government, was adopted in 1922—that's 50 years ago—and very little has been done with local government since that time. And I think one county—Petroleum—adopted a different type of county government; all the other 55 kept the same type that they have now and very few cities and towns made any attempt to change their government. And the reason for this is that there was no—nothing in there that forced them to look at their—and have the people become involved and to change their government. Now, the key of this particular article on reform and change of local government is that it will start the process of reform, and then if the people want a change, they can change it. If they don't want a change, it will remain the same, but at least they'll have a chance. Now, many have asked the question, "Well, how will this particular section work?" I think I mentioned it briefly yesterday—that a commission of probably three or five people would be appointed in either the cities—in the cities and the towns and also for the county—that would make a study of their government—and we assume they would work with the present government officials, hold hearings that the various citizens in the community could attend—and eventually they'd come up with a alternative or optional form of government. And all that would be done then—that if they decided on this, this commission would agree on this—that this alternative type of government would be submitted to the people at the next election and all they'd have to do is vote whether they wanted this new type of government—if they voted No, they'd go back to their old form. Now, as you recall, in our General Government article a few weeks ago, we adopted the idea of the Constitution being—idea of having a constitutional convention be submitted to the people every 20 years, and this was voted in—thought it would be a good idea. Well, here we have a—provided for a review every 10 years; and the reason we put this in here is that the first review will be 4 years after this Constitution is adopted. But then, you don't want to sit still on 4 years—we'd go another 50 without any change—so we see nothing wrong in submitting this every 10 years. Now, many of the city and county officials were very concerned about this 10-year business because, they said, of the ramifications of it—the cost of it, and it would be too complicated—but if you'll read that section, it just says that the Legislature shall provide for a review procedure, and I would assume that they could simply say—they'd just put on the ballot, are you—whether you vote that you're in favor of your present structure of government. If you vote Yes—if you're in favor of it, it will remain the same; if you're not pleased with your government, you'd vote No and then they'd have another commission to make a study and submit another alternative plan. So we feel that this section is the key—and also, there has been some concern that, say, a government changed its—say before this 4-year period or some time before the 10-year period—could they do this; and we would like to state for the record that a city or county government—any local government unit could change its government at any time. You don't have to wait for this 4 years or this 10 years, but this 10 years is—would have to be mandatory. So we feel this section is the key to the whole Local Government for reform of local government units, and we would ask that you support and adopt this particular section. Thank you.

CHAIRMAN MURRAY: Mr. Kelleher.

DELEGATE KELLEHER: Would Mr. Ask yield to a question, please?

CHAIRMAN MURRAY: Mr. Ask, will you yield to a question?

DELEGATE ASK: Yes.

CHAIRMAN MURRAY: All right.

DELEGATE KELLEHER: Tom, under Section 11, could the voters of Billings, which now have a unicameral legislature, could they choose to have either the city manager form of government or—and the alternative—and could they do this at one election? Could they have an alternative at one election—a choice, say, between a city manager form of government and a form of government where the aldermen would choose one of their number as mayor—in other words, the so-called "parliamentary" form of government? Could that be done at the same election?

DELEGATE ASK: Yes, Mr. Kelleher. When this commission—or whatever alternative is submitted to them—it could be any type of government; whatever this commission thought was the best—this would be submitted. The people could either adopt it, or if they didn't adopt it, they'd go back to their old system, but it—that—any type of city government could be submitted.

DELEGATE KELLEHER: As alternatives on the ballot?

DELEGATE ASK: Yes.

DELEGATE KELLEHER: Thank you.

DELEGATE ROMNEY: Mr. Chairman.

CHAIRMAN MURRAY: Mr. Romney.

DELEGATE ROMNEY: Mr. Chairman, I move to delete Section 11. I do it because I think that we've had—there is ample opportunity for municipalities and counties to carry on elections to change their form of government under the present situation, especially since we have adopted the arguments in the section previously adopted in this article. Take the city of Missoula, for example. Some years ago, they started out with a mayor and alderman type of government. Later on they decided that they wanted to have a change, so they took up the commission form of government. After a few years of using a commission form of government, they took up, I believe, the city manager form of government; and now they are back to—they decided they didn't like that, so they are now using the mayor and alderman type of government. And they're—according to the debate yesterday, the Mayor of Missoula was the only witness who appeared before the committee, asking that there be incorporated in this document a plan for a charter form of government, so I presume that Missoula will soon be embracing a charter form of government. Another—My argument is that there's ample latitude at the present time for change, and I think that it is an imposition to have an election every 4 years or every 10 years when they already can do it. Thank you.

CHAIRMAN MURRAY: Mrs. Bugbee.

DELEGATE BUGBEE: Mr. Chairman, I disagree with Mr. Romney wholeheartedly. I think that this is one of the most innovative things we have in our whole Constitution. The history of local government is that it—people sit on what they have—that they do not—they cannot pick the thing up and innovate—and this will put them on—this will put the problem of their government in front of them and they will have to face what they will do or will not do. I really disagree with what Mr. Romney said.

CHAIRMAN MURRAY: Mr. Arness.

DELEGATE ARNESS: Mr. Chairman, the—it should be kept in mind that by—we have kept our traditional form of government, including our traditional form of county government, and that the present organization of our county government tends to favor inaction. Most of the time that the County Commissioners spend, whether we like it or not or whether we are willing to admit it or not, consists in—not in taking action, but in trying to frame decisions that avoid action. The structure of county government is designed so as to create the greatest possible inertia over the longest possible time. That's one of the problems that we have. Our county government is not suited, of course, for a rural situation—or for a urban situation. County governments are antithetical to cities, and they are as much opposed to them as they are opposed to action. I submit that, in order to goad these people into some kind of movement, something is necessary. This is a very, very small thing that we have put in here, and it seems to me that it might have some good effect; it could certainly have—do no harm. It would help to overcome the inertia that exists in the existing system by virtue of its very structure, and I submit to you that we ought to keep this section.

CHAIRMAN MURRAY: Mr. Rollins.

DELEGATE ROLLINS: Mr. Chairman, when we had numerous county and city officials in for—to testify before our committee, I was impressed with the idea that the responses of local government to needs for change are about as fast as the reflexes of a brontosaurus that blinks its eyes 4 minutes after it's bitten on the tail by a tyrannosaurus. (Laughter) Mr. Romney mentions the changes that Missoula has made, and I applaud Missoula. They may find something that will solve their problems. I think that this is one of the vital parts of the Constitution as far as local government is concerned, because it gives a needed push to the local governments in order to meet local needs. We hear quite often that local governments will say they're satisfied with what they have, which, to me, is a rather low state of contentment. I remember once getting in a fight, and the other kid beat the soup out of me, and he says, "Are you satisfied?" And I said Yes, but I wasn't happy. (Laughter) Now, the local people have been getting the soup beaten out of them sometimes because they are under governments which refuse to meet the challenge, and I think this is something that will at least force them to propose some kind of an alternative within 4 years and again in 10 years, and I think it's one of the more valuable parts of the article.

CHAIRMAN MURRAY: Mr. Simon.

DELEGATE SIMON: Mr. Chairman, fellow delegates. This is the section that does the job for local government, and I'd hate to see the—this Convention drop any part of this section. We were accused the other day by some of the media of having gone from 1889 to 1920. Let's not kill the section that puts us back to 1900. Now, we've got tremendous problems in our area—in Billings, Montana—and if this section can do something in the next 10 years—Now this section here provides, within 4 years, that if the Legislature doesn't do something in providing procedures, the local voters can do something; and, for heaven's sake, let's not kill the very heart of the local government proposal by deleting this section. I implore you to—and tell you that this is one of the sections that Delegate—we gave the most consideration of any single section in this Local Government Article. I don't want to go home with a Local Government Article and say that we had nine good sections and we loused it up at the tail end by deleting Section 11, and I implore you to keep Section 11 alive. Thank you very much.

CHAIRMAN MURRAY: Mrs. Blend.

DELEGATE BLEND: Mr. Chairman, the entire idea of the Local Government Article is to get action to make people on the local level become aware of their government. This Section 11 would create interest in government. I would question Mr. Romney's prerogative in analyzing Missoula's government, because this is something for them to do. This is why we need this section, so that each unit of government may question their own government or not as they choose. This is the flexibility and this is the ribbon that ties up the entire section for action on the part of local government in the future.

CHAIRMAN MURRAY: Mr. Garlington.

DELEGATE GARLINGTON: Mr. Chairman, as the oldest living resident of Missoula in this Convention, it's history having been brought into question here, I think I ought to explain a little what went on. We tried to have the innovation of a city manager system there, but we ran into personnel problems, and the reason there was a change was just the personnel situation. Otherwise, I think we match up in citizen lethargy to most of the rest of the state, and I just have to say in conclusion that it doesn't seem to be too high a standard for the 21st Century to have the citizens be forced to face a new thought at least once every 10 years. (Laughter)

CHAIRMAN MURRAY: Mrs. Reichert.

DELEGATE REICHERT: Mr. Chairman. I, too, rise in support of the majority proposal. I think this is by far the most innovative section; and if you will recall, yesterday we were told that the National Municipal League had commended the Local Government Committee for their fine work on their article. I think if we deleted this section, we'd probably get a retraction of that letter from the National Municipal League.

CHAIRMAN MURRAY: Mr. Furlong, you've been up.

DELEGATE FURLONG: Mr. Chairman, I oppose deletion, and if I could prevail on some kind soul who was on the majority of the last section, I would even like to make a comment or two about that. What I'm seeking, Mr. Chairman, is some support for reconsideration, after Section 11, of Section 10. Thank you.

CHAIRMAN MURRAY: Mr. James.

DELEGATE JAMES: Mr. Chairman, I think we all campaigned on a platform that we'd make government more flexible, that we'd take the—take government out of a straitjacket. I think this is what we're doing by this section. I support it.

CHAIRMAN MURRAY: Miss Speer.

DELEGATE SPEER: I think I have—Mr. Chairman, I think I have only one thing to add to the arguments that have been made. I feel that local government is the training ground for our citizens in government participation, and I see nothing reprehensible in the fact that Missoula has changed a few times. I think it shows a citizen alertness and awareness, and this is not shown in too many communities. From the lot of interest in the Local Government Article on—in this Convention—and I am just as aware as anyone else, or perhaps more so, of the weariness of people at this state, which probably accounts for some of this—but I think that unless this provision for a voter review is made automatic in the Constitution, that there will tend to remain a status quo.

CHAIRMAN MURRAY: Mrs. Erdmann.

DELEGATE ERDMANN: Mr. President. I, too, am strongly opposed to the deletion of this article for the very reasons that everyone else has stated—the fact that this will tend to overcome the apathy on the local level toward the existing system of government. You know, people are very prone to criticize the courthouse or the city hall. They crab all the time about it. But this gives them a chance now—in 4 years after the ratification of this, they have a chance to do something, to quit complaining—and I have a sneaking suspicion that it will result in a vote of overwhelming confidence in the people who are trying to do a good job in local government—and therefore, I certainly oppose the amendment to delete.

CHAIRMAN MURRAY: Mr. Kelleher.

DELEGATE KELLEHER: Mr. Chairman, I think the Local Government Committee should be highly commended. I think this is one of the greatest articles going into this Constitution. We have the so-called "strong" mayor type of government down in Billings; and a month or so ago, one of the aldermen called him a "goofy buzzard"; and this led to a rash of sale—started a new industry in "goofy buzzard" T-shirts down in Billings. Our City Council does nothing but feud and fight. It's one of the biggest hindrances to the amusement industry in Billings (Laughter) because everybody can get a free show on Monday night down in Billings. It doesn't cost a nickel; you just have to hurry up and get down there early in order to insure yourself of a seat. We have recently appropriated—or spent Uncle Sam's money, which means our money—$300,000 on Poly Drive, to widen it. Made it a very nice four-lane highway—east-west highway in Billings—and the City Council wanted to make it—the Traffic Commission wanted to make it four lanes—they're nonpaid people that—citizens that serve on the Traffic Commission—but a few housewives went down and says, "No, we got no place to park our cars"—and so it's this huge—it's almost six lanes wide—it's still a two-lane highway because a handful of housewives—or a handful of men, too, for that matter—can run the City Council. And 24th Street West was another one. It's a very heavily trafficked four-lane highway—should be four lanes—it is four lanes, but it's painted for two lanes because a few of the people down there didn't like to have it four lanes. And I submit that one of the things that we really need in Billings is this provision, and if we have a new type of government where the—in the City Council, that we'll be able to get things done. Thank you.

CHAIRMAN MURRAY: Mr. Jacobsen.

DELEGATE JACOBSEN: Mr. Chairman, fellow delegates. We hope that this section shall and will create a movement in the counties and cities and towns to encourage the people to take a more active part in local government. We are closest to this form of government in our counties and cities, but we know the least about them. We just are apathetic. Indifference and apathy by citizens in most towns makes it absolutely necessary that we try to encourage the citizen to become involved. Our Local Government Article is flexible to this point and a very good article, I believe. Now, we must plan to zone and help our town to have a more active citizenry. Now, we would like the Constitution—or this Convention to be remembered for the new avenues of democratic self-government and opportunities and the opportunities that it opens for Montana, rather than the doors it leaves locked and unopened. We would not be concerned about a constitution as a literary document to be filed in the archives, but, rather, one that is functional and flexible and which encourages the democratic desires of the people, with a minimum of checks and balances aimed at preventing excessive or abusive use of power, rather than denying the people access to participation and responsibility for the government. This does encourage the people to take a more active part, and they will be aware of it 4 years from now and 10 years after that and for each 10 years thereafter, so we can have better local government.

CHAIRMAN MURRAY: And, Mr. Romney, would you choose to close?

DELEGATE ROMNEY: I don't know why.

CHAIRMAN MURRAY: Oh, Mr. Mahoney, I'm sorry. I just couldn't see you. There's so much activity ahead of you.

DELEGATE ROMNEY: Mr. Chairman—Oh, pardon me.

DELEGATE MAHONEY: Mr. Chairman, I never knew there was so much wrong with our city and county government until this morning. I guess it's all out. We should throw the whole works out. There's nothing good about it. I've heard nothing here good for our present officeholders that have been elected by the people. Now, this I'm wondering about—and maybe I'm altogether wrong—4 years, and 2 years later they've got to submit a new plan. Now, I am sure that maybe those housewives down on Poly Drive, they're going to maybe want to leave it as is, or they may want a new plan, and I certainly want them to have their side, but how many new plans are we going to have? This becomes a very serious question to me. Now, I'll admit they haven't changed as much as a lot of people want to change. Billings—and I happen to get the Billings paper, because I took it before I came up here, and I still take it, and I get a bang—all of a sudden there was a group down there that wants a city-manager form of government, but the worst blow they got is when, all of a sudden, down at Sheridan, they kicked out the city-manager form. It just ruined the Billings program. Now, we find these places over here, and we have in Helena, and they seems to be doing good. I think Helena is doing fine—city-manager form of government. Maybe it's a fine way. Bozeman is doing very well. Now, Missoula—and I see that on TV, and I see they have their problems in Missoula, and there seems to be an awful lot in Missoula. Now, will these problems change once we have—Now, this one structure might not be so bad, but to force the people every 10 years to come out with an alternate plan, come out with some new plan—it says here, and it's very keen, it's got to be a new plan that you're going to vote upon. Now, the rest of the other time, this responsibility—if you wanted to change in plans—was responsible upon the people that were the change—they wanted the change, they had to go out and get the petitions signed and do the work. Now, we're putting it over to state government and county government and says, "You shall submit a new plan." Now, I just—I'd just like to have the initiation come from the people and not from the top down. Now, they're going to name the commission, as I understand—and if the Legislature says that—and I think we have a lot of things to study up on this—"The Legislature shall provide for a review procedure each 10 years after the first election." Maybe we should leave this down and let the people at the bottom. Now, I'm willing to go with the first one, but this last section seems to me—every 10 years. Now, if you want to go out and rehash the whole state—and there's things I think could be done. I've been strongly for—to go—a lot of these small counties to go to the county-manager form of government; I think Petroleum County has proved that it can be done. I see nothing wrong with Silver Bow County going to a consolidated city-county manager form of government, but the voters of Silver Bow County, in its wisdom, each time has turned it down. Now, you got to remember this, that you went out here in Mineral County—and I think it was 2 or 4 years ago—they tried to go county manager, and the voters turned it down. Now, what I hate to see is to subject this to election every 10 years. I'm willing to go with the first one, but I'd like to have you give awful good consideration to this every-10-year thing. Now, if you could do this under the parliamentary system of government that has been suggested by the distinguished delegate from Yellowstone, then they could pick the time. You know, Labor government just got lost out in England the last time because they didn't pick the right time; ordinarily they pick the time to have an election so they can win. Now, maybe we shouldn't have this on the 10-year interval; maybe we should go to this parliamentary system and let them pick the time when they want to change the government; and maybe this would be one way, for the parliamentary system. Now, if we want to go far enough, then let's go out and say to the State of Montana that the State of Montana shall submit every 10 years the parliamentary system or some other system of government to all the people. We're just asking the cities and counties to do things that we aren't asking the state to do. Now, this is—I think this—I don't mind the first one but, boy, I'll have an awful time on the second one. Thank you.

CHAIRMAN MURRAY: Mr. Ask.

DELEGATE ASK: Mr. Chairman, I would like to reply to Mr. Mahoney. On the 10 years, I think you misunderstood that. We don't intend, by the 10 years, to submit an alternative plan, go through the whole procedure. All that is worded, if you'll look at it, is that they'll provide for a review procedure, which we contemplate to be merely placing on the ballot to the people at an election—do you—are you happy or do you want to change your government, or are you satisfied with your present structure of government—do you vote Yes or No? You vote Yes, that's all that's to it. If the majority of people want to vote at that election that they want to change their government, then they go through the process of submitting an alternative at the next election. We assume this is the way it's going to work. They're not required to go through this lengthy procedure every 10 years. And, if you'll recall, we have a 6-year provision if the unicameral is adopted that'll be put on the ballot—what is it, 6 or 8 years?—I can't recall. And, also, our Constitution is going to come up for a convention every 20 years, so the people are going to get a chance to—whether they want to change the structure of their state government. I see nothing wrong on the grassroots, the local government, to have this opportunity to vote Yes or No every 10 years. But they're—just so it's clear to everyone here, they're not required to go through the lengthy process. And we have in the Bill of Rights, I believe, that they want people to participate in government—the right to know, the right to participate. Well, I think by this procedure, we're giving them a right to participate, to take an interest in it, and I therefore oppose the motion to delete and would ask that the Convention adopt the section.

CHAIRMAN MURRAY: Mrs. Eck.

DELEGATE ECK: I would just like to say a few words in behalf of County Commissioners; I think that they have been kind of blasted from time to time here. But the Commissioners, as I understand it, look at their job as not one of initiating new forms, and this is a very difficult thing for them. Now, it might be that this is just our Commissioners, but at least they have the feeling that if they are going to change, then our Commissioners are in a situation where we are, you know—we are fast becoming an urbanized county or a county where urban services are needed out in the outlying areas, and yet they are continually criticized if they try to initiate action. This would really be a way where the Legislature would direct them to involve citizens in a process where they, with the citizens, could come up with some changes that might enable them to deal with their problems more effectively. You know, fortunately, our city government doesn't have these problems. Bozeman is one of those fortunate places with a city-manager form of government where we have continually had very good management. Thank you.

CHAIRMAN MURRAY: Mrs. Robinson.

DELEGATE ROBINSON: Mr. Chairman, I would just very briefly like to respond to some of the comments made by Mr. Mahoney, particularly in relation to Missoula's problems. Since I've been at the Convention, Missoula has lost one of its problems, so you don't have to worry about that. But I would just like to say, in support of the majority report of the Local Government Committee, it seems to me that you're right that there has not been much change in local government, and I'm not so sure it's because we're that satisfied with it. I'm sure the delegates to the 1889 Constitutional Convention would be quite familiar with our present form of municipal government, but I think you have to realize that in—even as late as 1920, there were only something like 24 incorporated municipalities; now we have a hundred and twenty-six. But of this hundred and twenty-six, only 37 of these are gaining any population at all, and a great many of them are rapidly decreasing and will soon become to the point where they may—would like to be unincorporated. I think this is a real essential part of this revision of local government—to allow these areas where the population is decreasing to, every 10 years, or periodically, look at their form of government in relation to the number of people that they have, because this is changing, and the need for the governmental services that they need to provide. I think that this is probably the most crucial point of having some of these hundred and twenty-six incorporated municipalities get into the 1970's.

CHAIRMAN MURRAY: Mr. Martin.

DELEGATE MARTIN: Mr. Chairman, I rise to support the majority report and say that, in my opinion, this is something that we need. It's an educational program, and it isn't going to cost anything. If the motion prevails, I would move that we delete one phrase, "or special", and to have it read: "The local unit shall submit one alternative form of government to the voters at the next general"—and I would omit "or special"—"election". And I think that it would be something that wouldn't cost any additional amount of money and it would be highly informative. As you talk to Commissioners sometimes and recognize their problems, they find that they haven't got enough citizen participation, and this would be a good opportunity for just that. I support the motion of the majority.

CHAIRMAN MURRAY: Mr. Anderson.

DELEGATE OSCAR ANDERSON: I would like to see us resolve this issue on its merits and have a vote at this time.

CHAIRMAN MURRAY: Well, Mr. Romney has the opportunity to close, and I am going to give him that opportunity.

Mr. Romney, you are closing?

DELEGATE ROMNEY: Sir?

CHAIRMAN MURRAY: You are going to close, is that right?

DELEGATE ROMNEY: Yes, sir—

CHAIRMAN MURRAY: Okay.

DELEGATE ROMNEY: —unless someone else wants to talk.

CHAIRMAN MURRAY: I see nobody else.

DELEGATE ROMNEY: Mr. Chairman, I brought this matter up because I felt that there was ample opportunity for change under the present situation, as augmented by the material that was adopted yesterday. I still think that, and so I think that I'll let the matter go, with the observation that yesterday I noted that the Convention was slumbering through the session. At one time there were 56 people—delegates—on the floor by actual count, and the Convention had degenerated into a Rip Van Winkle assemblage. I think that something had to be done to dynamite some action into the operation so that people would become aware of what was transpiring. I think it has served that purpose in the discussion on the last section, as well as on this Section 10, and if it is necessary to nail my hide on the electric voting board, why, I think it is well done. I thank you.

CHAIRMAN MURRAY: All right. Members of the committee, the now—the question now arises on the motion of Mr. Romney—

UNIDENTIFIED DELEGATE: Roll call.

CHAIRMAN MURRAY: We'll have a roll call vote; and Drum and Brown have returned, so they may vote. The question now arises on the motion—substitute motion of Mr. Romney that we delete Section 11 in its entirety. We'll use the voting machine. So many as are in favor, vote Aye; those opposed, vote No. Has every delegate voted?

(No response)

CHAIRMAN MURRAY: Does any delegate wish to change his vote?

(No response)

CHAIRMAN MURRAY: The vote is now closed. The clerk will tally the vote.

Aasheim	Nay
Anderson, J.	Nay
Anderson, O.	Nay
Arbanas	Nay
Arness	Nay
Aronow	Nay
Artz	Nay
Ask	Nay
Babcock	Nay
Barnard	Nay
Bates	Nay
Belcher	Nay
Berg	Nay
Berthelson	Nay
Blaylock	Nay
Blend	Nay
Bowman	Nay
Brazier	Nay
Brown	Aye
Bugbee	Aye
Burkhardt	Nay
Cain	Nay
Campbell	Nay
Cate	Nay
Champoux	Absent
Choate	Nay
Conover	Nay
Cross	Nay
Dahood	Absent
Davis	Nay
Delaney	Nay
Driscoll	Absent
Drum	Nay
Eck	Nay
Erdmann	Nay
Eskildsen	Nay
Etchart	Aye
Felt	Nay
Foster	Nay
Furlong	Absent
Garlington	Nay
Graybill	Absent
Gysler	Nay
Habedank	Nay
Hanson, R.S.	Nay
Hanson, R.	Nay
Harbaugh	Nay
Harlow	Excused
Harper	Nay
Harrington	Nay
Heliker	Nay
Holland	Excused
Jacobsen	Nay
James	Nay
Johnson	Nay
Joyce	Nay
Kamhoot	Nay
Kelleher	Nay
Leuthold	Nay
Loendorf	Nay
Lorello	Nay
Mahoney	Aye
Mansfield	Nay
Martin	Nay
McCarvel	Nay
McDonough	Nay
McKeon	Nay
McNeil	Nay
Melvin	Nay
Monroe	Nay
Noble	Nay
Nutting	Nay
Payne	Nay
Pemberton	Nay
Rebal	Nay
Reichert	Nay
Robinson	Nay
Roeder	Nay
Rollins	Nay
Romney	Aye
Rygg	Nay
Scanlin	Nay
Schiltz	Nay
Siderius	Nay
Simon	Nay
Skari	Nay
Sparks	Nay
Speer	Nay
Studer	Nay
Sullivan	Nay
Swanberg	Nay
Toole	Absent
Van Buskirk	Absent
Vermillion	Nay
Wagner	Nay

Ward .... Nay
Warden .... Excused
Wilson .... Nay
Woodmansey .... Nay
Chairman Murray .... Nay

(Delegate Bugbee rose to gain the Chair's recognition) (Laughter)

CLERK HANSON: She wants to explain her vote.

CHAIRMAN MURRAY: I think you're out of order. (Laughter) What do you want—what would you like to say?

DELEGATE BUGBEE: Mr. Chairman, I would like to change my vote. (Laughter)

CHAIRMAN MURRAY: You would like to—I'm sorry, the vote is closed, but the record will show that you voted in error.

DELEGATE ROMNEY: Mr. Chairman.

CHAIRMAN MURRAY: Mr. Romney.

DELEGATE ROMNEY: I think that Mrs. Bugbee should be allowed to change her vote. She was overwhelmed with the green of the day. (Laughter)

CHAIRMAN MURRAY: The record will show that she voted in error.

CLERK HANSON: Mr. Chairman, 5 delegates voting Aye, 85 voting No.

CHAIRMAN MURRAY: 5 delegates having voted Aye and 85 voting No, the motion has failed. The question now arises—
Mr. Martin.

DELEGATE MARTIN: I would like to offer an amendment to delete "or special" in line 10.

CHAIRMAN MURRAY: Now, what page are you on, at line 10?

DELEGATE MARTIN: On page 31.

CHAIRMAN MURRAY: You're—you would simply delete the words "or special election", is that right?

DELEGATE MARTIN: That's right.

CHAIRMAN MURRAY: And that would be the same three words, "or special election", on line 4 of page 6. Just "or special", I guess; that's your motion.

DELEGATE MARTIN: Right.

CHAIRMAN MURRAY: The two words "or special".
Mr. Martin.

DELEGATE MARTIN: In order to save time, I'll be quiet. (Laughter)

CHAIRMAN MURRAY: Mr. Wilson.

DELEGATE WILSON: Mr. President.

CHAIRMAN MURRAY: Mr. Wilson.

DELEGATE WILSON: I don't have any quarrel with this proposal, except that it does require the voters in a county to do this every 10 years, whether they want to or not. And I submit that perhaps this may—should be a voluntary thing and if a group wants to submit an alternate plan, this would be fine; and I would like to change one word on page 6, line 3, and insert "may" instead of "shall".

CHAIRMAN MURRAY: Give me that again, would you please, Mr. Wilson?

DELEGATE WILSON: Insert "may" in place of "shall" on line 3, page 6.

CHAIRMAN MURRAY: Is that a form of a substitute motion for Mr. Martin?

DELEGATE WILSON: This is right.

CHAIRMAN MURRAY: Mr. Wilson, I'm going to rule your motion out of order, because it does not affect Mr. Martin's motion at all. His amendment can stand alone without yours, and let's take up the issue of Mr. Martin's amendment—that's the one you should be addressing yourself to—and then let's go to yours, if that's all right.

DELEGATE WILSON: That will be fine, Mr. Chairman.

CHAIRMAN MURRAY: All right.
Mr. Jacobsen.

DELEGATE JACOBSEN: Mr. Chairman and fellow delegates. Isn't it true that our city elections, especially, are held usually at just a—it's a special election just for that purpose? Our city officials are not held at regular presidential general elections, so special elections or city elections instead of these special—maybe we could substitute and put in there, "general" or "local elections".

CHAIRMAN MURRAY: Mr. Ask, could you respond to that, please?

DELEGATE ASK: Mr. Chairman, I think I would oppose this motion to delete those two words by Mr. Martin. We're not out here to get special elections. We want to cover it broadly. You have a general or a special election. Now, city elections are held on different days than the general election. The general election, of course, would apply to the county, so I would say, let's leave it flexible. And I'm sure the local officials are not going to be wasting money on elections if they don't have to. And if your city officials are elected for 4 years, possibly you'd go a long time here without an election, so let's leave it up to the local people when they want to have their election, whether they want to wait until the general election or the next city election or whether they want to even have a special election—I don't think they would—but let's leave it up to the local level and not decide it here. So, I would move—I would be in opposition to that motion to delete those two words.

CHAIRMAN MURRAY: Mr. Martin, do you choose to close?

DELEGATE MARTIN: I would be agreeable to change it to "city election"—or "city election or local election". I wasn't precluding any regular authorized elections. My point was that it shouldn't be a special election to add additional cost and it should come at a time when you are voting for regular city or county officials, and the general election is where you elect the county officials, so you could—I would be willing to change it—"or city elections" or something of this sort.

CHAIRMAN MURRAY: I have no motion to that effect, Mr. Martin. You still have the floor; do you wish to make such a motion?

DELEGATE MARTIN: Well, I'll amend it to say "general or city election". Well, the county is at a general election—is—am I right? "General or city election"—I'll amend it to that.

CHAIRMAN MURRAY: So your motion now stands, then, instead of deleting the words "or special", you want to change those words to read "or city"; is that right?

DELEGATE MARTIN: Right.

CHAIRMAN MURRAY: Mrs. Babcock.

DELEGATE BABCOCK: Mr. Chairman, I'll offer a substitute motion to delete "general or special", so that it will read "at the next election".

CHAIRMAN MURRAY: Mrs. Babcock has now made a substitute motion to delete the words "general or special election", but I guess, by virtue of doing so, she is attempting to wipe out Mr. Martin's motion to change "special" to "city". All right.

Mr. Anderson.

DELEGATE OSCAR ANDERSON: I resist all of these substitute motions and would like to have the delegation consider the original language. This provides the flexibility that you need. The local officials are aware of their situation. They're responsive to the voters, and they're not going to increase expenses by holding a needless special election. I'd like to see them have the utmost flexibility so they can act on the voters' behalf in the most efficient and economical way. Please defeat these substitute motions.

CHAIRMAN MURRAY: Mr. Choate.

DELEGATE CHOATE: Mr. Chairman, I would support the position of the majority report, because, conceivably, if you said just "election", a school board election might be the next election, and it certainly would not fit this situation.

CHAIRMAN MURRAY: Okay. The question now arises on the motion of Mrs. Babcock, a substitute motion to delete the words "general or special" on line 4 of page 6. As many as are in favor of that motion, say Aye.

DELEGATES: Aye.

CHAIRMAN MURRAY: Those opposed, say No.

DELEGATES: No.

CHAIRMAN MURRAY: The Noes have it, and so ordered. The question now arises on the motion of Mr. Martin to amend the word "special" to "city", so that the language reads: "the voters at the next general or city election". As many as are in favor of that motion, say Aye.

DELEGATES: Aye.

CHAIRMAN MURRAY: Those opposed, say No.

DELEGATES: No.

CHAIRMAN MURRAY: The Noes have it, and so ordered.

Now, Mr. Wilson, I think that your motion would be in order at this time.

DELEGATE WILSON: I move that, on line 3, after the word "and", in place of the word "shall", we put in the word "may"—on page 6.

CHAIRMAN MURRAY: Do you wish to speak to that motion, Mr. Wilson?

DELEGATE WILSON: Mr. President, I think this will provide the people in the local county with the opportunity to either—they won't be required to do this—it wouldn't be a definite term—thing, as spelled out here; that they would have to do it—and if they're satisfied, why, they would just remain with their status quo. I do believe that it—any county or—that is satisfied with their system shouldn't be required to do this every 10 years if they don't choose to do so.

CHAIRMAN MURRAY: Mr. Arness.

DELEGATE ARNESS: Mr. Chairman, I can't help but feel that maybe Mr. Wilson doesn't entirely understand what the committee was trying to do here, and I'd like to get him back on the majority's side, if we can. The idea of Section 11 is to give voters in the area a chance to take a look at it and decide. That's the whole point of it. If they decide at the election that they want to review it, then they'll go ahead and engage in the review procedure; if they decide they don't want it, then they won't. And they're not being forced, under the present Section 11 the way it is in the majority report, to do something or not to do something. They are given just exactly what you pointed out, they're given a choice. This is their election, and at the election they make the choice whether they want to make the review or not to make the review. Nothing is forced on the voters by this section. I oppose the amendment on behalf of the committee, Mr. Chairman.

CHAIRMAN MURRAY: Okay. The question now arises on Mr. Wilson's motion to amend the word "shall" to the word "may". As many as are in favor of his motion, say Aye.

DELEGATES: Aye.

CHAIRMAN MURRAY: Those opposed, say No.

DELEGATES: No.

CHAIRMAN MURRAY: The Noes have it, and so ordered. Committee members, the question now arises on the motion of Delegate Ask that when this committee does rise and report, after having had under consideration Section 11 of committee proposal 11 on Local Government, that the same be adopted. As many as are in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN MURRAY: Those opposed, say No.

DELEGATES: No.

CHAIRMAN MURRAY: The Ayes have it, and so ordered. The Chair has no further amendments.

Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. Chairman, I move the committee rise and finally report.

CHAIRMAN MURRAY: The question now arises on the motion by Mr. Eskildsen that the committee rise and finally report. As many as are in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN MURRAY: All those opposed, say No.

(No response)

CHAIRMAN MURRAY: The Ayes have it, and so ordered.

(Proceedings reverted from Committee of the Whole to Convention, Delegate Murray as Acting President)

CLERK HANSON: "March 17th, 1972. Mr. President: We, your Committee of the Whole, having had under consideration Report Number 11 of the Committee on Local Government, recommend as follows: that the Committee rise and finally report. Signed: Marshall Murray, Chairman."

DELEGATE ESKILDSEN: Mr. Acting Vice—Mr. Acting President, Mr. Murray, Delegate, sir, I move the adoption of the Committee of the Whole report.

ACTING PRESIDENT MURRAY: And that committee proposal Number 11 be referred to the Committee on Style and Drafting.

DELEGATE ESKILDSEN: I so do, Mr. Murray.

ACTING PRESIDENT MURRAY: As many as are in favor of the motion, say Aye.

DELEGATES: Aye.

ACTING PRESIDENT MURRAY: Those opposed, say No.
(No response)

ACTING PRESIDENT MURRAY: The Ayes have it, and so ordered.
Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. Acting President, Marshall Murray, because of the way we've conducted ourselves, I move that we stand in recess until 11 o'clock this day.

ACTING PRESIDENT MURRAY: Thank you. Now, just before going into recess, before calling for that vote, I would like to have the pages—I have a note the pages are to go out into the foyer out there for some purpose. They will please do that, and I have been asked that I should suggest to you that you remain in your seats for just a moment after we recess. As many as are in favor of Mr. Eskildsen's motion to recess until 11 o'clock, say Aye.

DELEGATES: Aye.

ACTING PRESIDENT MURRAY: All those opposed, say No.
(No response)

ACTING PRESIDENT MURRAY: The Ayes have it, and so ordered.

(Convention recessed at 10:45 a.m.)

(During the recess, flowers were placed on the desks of the male delegates in commemoration of St. Patrick's Day, and a brief presentation was made by Mrs. J. C. Garlington. Appropriate thanks were extended by Mr. Murray.)

(Convention reconvened at 11:10 a.m., President Graybill in Chair.)

PRESIDENT GRAYBILL: The Convention will be in session—the Committee will be in session. Ladies and Gentlemen, including those in the lobby, I wish you'd come to your seats. Very well, members of the Committee, we'll be in session. I understand, in my absence, that the wives of those delegates that are living here were nice enough to bring us these flowers, and I want to point out to the Convention that my wife chose snapdragons. (Laughter) However, I'd also like to say that I was stopped in the lobby by the press and they said, "Is this the funeral for Mr. Studer's right-to-work bill?" (Laughter) Very well, I think enough of us are back.
Mr. Eskildsen, will you make a motion.

DELEGATE ESKILDSEN: Mr. President, I move the Convention resolve itself into Committee of the Whole for the purpose of handling business under General Orders.

PRESIDENT GRAYBILL: The motion is to resolve ourselves into Committee of the Whole. All in favor, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.
(No response)

PRESIDENT GRAYBILL: So ordered.

(Convention resolved into Committee of the Whole. President Graybill in Chair.)

CHAIRMAN GRAYBILL: Mr. Schiltz, we're prepared, I think, to go ahead on Report Number 13 from the Style and Drafting Committee; and to do that, I think it will require a motion to suspend the rule about the 48 hours on the desks. We might try the body and see if they'll do that.
Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, I move that the Committee of the Whole suspend the rules—and I don't—I'm not sure which rule it is—

CHAIRMAN GRAYBILL: Rule 23.

DELEGATE SCHILTZ: —23?

CHAIRMAN GRAYBILL: Rule 23.

DELEGATE SCHILTZ: —suspend Rule 23 for the purpose of considering Style and Drafting substantive report, which is labeled Report Number 13. As everybody knows, we're moving along pretty fast on some of this, and it's going to be necessary to suspend the rules to get everything done by tomorrow night.

CHAIRMAN GRAYBILL: Very well, the motion is to suspend the rules—or suspend Rule 23, which requires 48 hours on your desk before consideration, on Style and Drafting's Report

Number 13, which concerns the ordinances. Is there discussion of that motion?

Mr. Harlow.

DELEGATE HARLOW: I just want to be here so I can vote.

CHAIRMAN GRAYBILL: Very well. Oh, Harlow was—Harlow, you're—Mr. Harlow, your presence may be shown on the journal. Mr. Drum, your presence may be shown on the journal. Very well, the motion is to suspend Rule 23 to allow consideration of Style and Drafting Report Number 13 without it having lain on your desk 48 hours. All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

(No response)

CHAIRMAN GRAYBILL: So ordered. Mr. Clerk, will you read the title and the article of Report Number 13.

CLERK HANSON: "Montana Constitutional Convention, 1971-72; Committee on Style, Drafting, Transition and Submission Proposal Number 13. Reported March 16th, 1972; John M. Schiltz, Chairman. Be it proposed by the Committee on Style, Drafting, Transition and Submission that there be a new article on Compact with the United States, to read as follows: Article. Compact with the United States. All provisions of the Enabling Act of Congress, approved February 22, 1889, 25 Stat. 676, and of Ordinance Number 1, appended to the Constitution of the State of Montana and approved February 22, 1889, including the agreement and declaration that all lands owned or held by any Indian or Indian tribes shall remain under the absolute jurisdiction and control of the Congress of the United States, continue in full force and effect until revoked by the consent of the United States and the people of Montana. Signed: Schiltz, Chairman."

DELEGATE SCHILTZ: Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: I move that when this committee does arise and report, after having had under consideration Style and Drafting Report Number 13, it recommend the same be adopted. Mr. Chairman, this particular article is in answer to a request by the various Indian tribes of Montana that something go into the Constitution—in particular, the Indian tribes wanted the Ordinance Number 1 reprinted at length so that our present Constitution provide exactly as the—as—that our new Constitution provide exactly as the old one—or the present one. We, in the Style and Drafting Committee, decided not to do that because there's quite a lot of material in there that doesn't pertain to the Indians themselves, but we considered, as North Dakota did, that it was necessary to put something in the Constitution to acknowledge that the old Enabling Act requirements were still in full force and effect in this new Constitution and to note particularly that the general language that the declaration that all lands owned or held by Indians and Indian tribes shall remain under the jurisdiction and control of the Congress of the United States. I think North Dakota, in response to an inquiry from us, answered the problem about as well as it could be answered. They said not to put it in would be like throwing away our copy of the contract. Mr. Chairman, I move the adoption.

CHAIRMAN GRAYBILL: Mr. Davis.

DELEGATE DAVIS: Mr. Chairman, would Mr. Schiltz yield to a question?

DELEGATE SCHILTZ: I yield.

DELEGATE DAVIS: Mr. Schiltz, I'm sure you gave consideration to this, but I wonder what the thinking was, when you refer to this as your copy of the contract, the Enabling Act has been amended at least twice since that time. I wondered if the language "and subsequent amendments thereto" would be appropriate. I mean, if you're adopting the original.

DELEGATE SCHILTZ: Well, I don't think Ordinance Number 1 has ever been amended, and that's the particular reference.

DELEGATE DAVIS: It says that all provisions of the Enabling Act of Congress, approved—and of Ordinance 1, and I'm just—

DELEGATE SCHILTZ: Well, we will be adopting any amendments that are now in that Enabling Act.

DELEGATE DAVIS: All right, thank you.

CHAIRMAN GRAYBILL: Mr. Scanlin.

DELEGATE SCANLIN: On behalf of my Indian friends and the United Tribal Council, I want to thank the Committee on Style and Drafting for giving consideration to proposal Number

15, and I'm very happy with the results. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mrs. Eck.

DELEGATE ECK: Mr. Chairman, the second section of Ordinance 1 was referred to the Bill of Rights Committee. We decided in committee that we really didn't have the authority to make any changes in it, since it was really a contract with the United States government and that it should be left as is. We have not met to consider the proposal of the Style and Drafting Committee, but in looking at what it says, which is really that the ordinance will—is still accepted, I think that it satisfies that provision. I would hope that in some printed copies of the Constitution, the ordinances would be included, even though they—you know, when you read through them, they're very—pretty much outdated. I think that the phrase "that all lands owned or held by Indian or Indian tribes shall remain under the absolute jurisdiction and control of the Congress of the United States" is really what the Indians were concerned about. I tried this morning to get in touch with the local representative of the Intertribal Council and was not able to reach her, and I think that anyone who has discussed it with her might relate this to the body. In looking at it just from the short time I've had to look at it, it's—looks as though it's really pretty much in keeping with what they want. Thank you.

CHAIRMAN GRAYBILL: Mr. Jacobsen.

DELEGATE JACOBSEN: Mr. President, may I ask Mr. Schiltz a question, please?

DELEGATE SCHILTZ: I yield.

DELEGATE JACOBSEN: Mr. Schiltz, does—would this prevent the Indians from selling their lands or leasing them to others? I understand that maybe Mr. Hanson from Ronan could tell us this, but the Indians—a lot of white people own, or apparently own, Indian lands. Would this prevent them from selling these lands, then?

DELEGATE SCHILTZ: Absolutely not. This has no effect on anything—any existing law, any—it just reaffirms the contract we made with the United States under the Enabling Act, in which we've protected the rights of Indian lands—and whatever the Congress does, this won't affect it. They still have the right to do it. So—

DELEGATE JACOBSEN: Thank you.

CHAIRMAN GRAYBILL: Mr. Davis.

DELEGATE DAVIS: Would Mr. Schiltz yield to a question?

DELEGATE SCHILTZ: I yield.

DELEGATE DAVIS: Mr. Schiltz, on line 9, after six-seven-six, with the parentheses around it, would you have any objection to adding the words "as amended", or would it create a problem with Style and Drafting?

DELEGATE SCHILTZ: Well, I wouldn't want to do it unless I had some very good authority on what the amendments are, and I don't as I stand here right now.

DELEGATE DAVIS: Well, the statutes—

DELEGATE SCHILTZ: I don't think the ordinances have been amended.

DELEGATE DAVIS: No, I'm referring to the Enabling Act that you are talking about more than the ordinances. You're talking about your adopting the Enabling Act—

DELEGATE SCHILTZ: Oh, all right—

DELEGATE DAVIS: —and the ordinance. The Enabling Act was amended in 1920-something to provide that we could accept mineral-bearing lands. It was later again, in 1930's, amended to permit us to keep the minerals and requiring us—in any future sales or exchanges, to reserve all minerals for the schools. So, I would think you would have our complete contract, accepting the original and the amendments thereto as well.

DELEGATE SCHILTZ: All right, why don't you insert an amendment after the word "six seventy-six" and before the paren?

DELEGATE DAVIS: I would so move, Mr. President, if you follow that. After the parenthesis on line 9, "six-seven-six, as amended"—

DELEGATE SCHILTZ: (Inaudible)—as amended?

DELEGATE DAVIS: I beg your pardon?

DELEGATE SCHILTZ: Don't you think the paren ought to follow "as amended"?

CHAIRMAN GRAYBILL: Mr. Davis, he's proposing you put it in so that it reads: "February 22, 1889, 25 Statutes 676, including amendments"

—or—"as amended."

DELEGATE DAVIS: Very good.

CHAIRMAN GRAYBILL: As amended?

DELEGATE DAVIS: As amended. Thank you.

CHAIRMAN GRAYBILL: Very well. Mr. Davis has proposed an amendment to the article, Compact with the United States, which would appear in your books on page 2, line 9, within the parentheses and after the numbers "six seventy-six", we would add the words "as amended", so that it would read: "All provisions of the Enabling Act of Congress, approved February 22nd, 1889, 25 Statutes 676, as amended, and of Ordinance Number 1." Is that the sense of your motion, Mr. Davis?

DELEGATE DAVIS: Yes.

CHAIRMAN GRAYBILL: Very well.
Mr. Johnson.

DELEGATE JOHNSON: Mr. Chairman, would Mr. Loendorf yield to a question?

CHAIRMAN GRAYBILL: Mr. Loendorf?

DELEGATE LOENDORF: I'll yield.

DELEGATE JOHNSON: Jerry, after looking over this—I value your opinion—does it change the intent of the present Constitution as referring to the Indian lands?

DELEGATE LOENDORF: This is the provision that was on the handout sheet that merely makes reference to that ordinance rather than incorporates it in its entirety?

DELEGATE JOHNSON: Yes, sir. I'm particularly concerned there about—is the reference to the Indian lands. What I—when—it was your opinion—does the Style and Drafting wording here—

DELEGATE LOENDORF: There's no change in substance.

DELEGATE JOHNSON: —any different than the intent that's in the Constitution as it is?

DELEGATE LOENDORF: None at all. None at all.

DELEGATE JOHNSON: You feel that way?

DELEGATE LOENDORF: Right.

DELEGATE JOHNSON: Thank you very much.
Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Johnson.

DELEGATE JOHNSON: Would Mr. Cate yield to a question, please?

CHAIRMAN GRAYBILL: Mr. Cate?

DELEGATE CATE: Certainly.

DELEGATE JOHNSON: Jerry, I would like to ask you the same question I just asked Jerry Loendorf. Do you agree that there is no change in the absolute intent in the Style and Drafting in their presentation here from the ordinances as written in the present Constitution?

DELEGATE CATE: I think that it carries through the same intent. I haven't examined it in detail, Mr. Johnson. I'll take a look at it here—Mr. Blaylock just handed it to me—and I'll answer your question in a moment. All right?

DELEGATE JOHNSON: Thank you. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Is there other discussion of Mr. Davis' amendment or the ordinance?
Mr. Burkhardt.

DELEGATE BURKHARDT: Just about the ordinance. The lack of a signature says I wasn't here, not that I don't approve of it, and I wanted to have that there for the record.

CHAIRMAN GRAYBILL: Very well, the issue arises on Mr. Davis' motion that we add the words "as amended" to the reference to the Enabling Act of Congress in the Compact with the United States article. So many as are in favor of adding that language, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: So many as are opposed, No.

DELEGATES: No.

CHAIRMAN GRAYBILL: It's adopted. Now, we're back considering the language as a whole. The substance of this—this is a substantive report from Style and Drafting, and we may consider it substantively and style. Is there any

further discussion of the article entitled, "Compact with the United States"?
(No response)

CHAIRMAN GRAYBILL: Very well, all in favor of the article as it's written and amended here, please say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

CHAIRMAN GRAYBILL: It's adopted as amended. I'd like a motion, Mr. Murray; I'd like a motion this committee rise and report finally on Style and Drafting Report Number 13, Ordinance.

DELEGATE MURRAY: Mr. Chairman, I move that the committee rise and finally report on Committee on Style, Drafting, Transition and Submission Proposal Number 13.

CHAIRMAN GRAYBILL: All in favor of that motion, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: So ordered.

(Proceedings moved into Convention from Committee of the Whole. President Graybill presiding)

PRESIDENT GRAYBILL: Will the clerk please read the Committee of the Whole report.

CLERK HANSON: "March 17th, 1972. Mr. President: We, your Committee of the Whole, having had under consideration Report Number 13 of the Committee on Style, Drafting, Transition and Submission, recommend as follows: that the committee rise and report. Signed: Leo Graybill, Chairman."

PRESIDENT GRAYBILL: Does anyone want the committee report read in full?

DELEGATES: No.

PRESIDENT GRAYBILL: Very well, Mr. Murray.

DELEGATE MURRAY: Mr. President, I move that we adopt the Committee of the Whole report and refer Committee on Style, Drafting, Transition and Submission Proposal Number 13 to Order of Business Number 5.

PRESIDENT GRAYBILL: The motion is to adopt the Committee of the Whole report and refer Proposal Number 13 to Order of Business Number 5, Final Adoption. Is there any discussion?
(No response)

PRESIDENT GRAYBILL: All in favor of that motion, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: No—all opposed, No.
(No response)

PRESIDENT GRAYBILL: So ordered. Mr. Murray.

DELEGATE MURRAY: Mr. President, I move that we revert to Order of Business Number 5.

PRESIDENT GRAYBILL: The motion is to revert to Order of Business Number 5, Adoption. All in favor, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.
(No response)

PRESIDENT GRAYBILL: Very well, be—we're on Order of Business Number 5. Now, the purpose of this, members of the body, is that Style and Drafting, having drafted the ordinance and it being short—having drafted the proposal about the ordinance and it being short, there seems no purpose in sending it back to Style and Drafting, and Mr.—let's see—so we're considering it on Order of Business Number 5 right now, and we'll finally adopt it unless someone has objection.
(No response)

PRESIDENT GRAYBILL: Very well, the clerk will read Proposal Number 13, as amended, for action on Order of Business Number 5.

CLERK HANSON: "Committee on Style, Drafting, Transition, Submission Proposal Number 13. Be it proposed by the Committee on Style, Drafting, Transition and Submission that there be a new article on Compact with the United States, to read as follows: Article. Compact with the United States. All provisions of the Enabling

Act of Congress, approved February 22nd, 1889, 25 Statutes 676, as amended, and of Ordinance Number 1, appended to the Constitution of the State of Montana and approved February 22nd, 1889, including the agreement and declaration that all lands owned or held by any Indian or Indian tribes shall remain under the absolute jurisdiction and control of the Congress of the United States, continue in full force and effect until revoked by the consent of the United States and the people of Montana." Mr. President, Number 13.

PRESIDENT GRAYBILL: Very well, the article entitled "Compact with the United States" is before you. All those in favor of it, vote Aye on the voting machines; and opposed, vote No. This is a final vote. For those of you who just arrived, we're taking Order of Business Number 5, Final Adoption of Compact with the United States, which we just adopted as amended. The words "as amended" were the amendment. So the Compact with the United States is the issue. If you're in favor of it, vote Aye; if you're opposed to it, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Please take the roll.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Absent
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Absent
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Aye
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Absent
Etchart	Aye
Felt	Absent
Foster	Aye
Furlong	Aye
Garlington	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Absent
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Excused
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Nay
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Absent

Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Absent
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Absent
Warden	Excused
Wilson	Aye
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. President, 89 delegates voting Aye, 1 voting No.

PRESIDENT GRAYBILL: 89 having voted Aye and 1 having voted No, the Compact with the United States is adopted. Now, ladies and gentlemen, we do not want to start the Education Style and Drafting until after the noon recess. Have in mind that the Public Health Style and Drafting will probably be taken up this afternoon on a motion to suspend the 48-hour rule. If we finish both of those, we will start General Government this afternoon, and I want to remind you that the committee chairmen—I'd like to have a meeting of the committee chairmen in the Legislative room immediately upon the noon recess.

Mr. Murray.

DELEGATE MURRAY: Mr. President, just a reminder that Rules will also meet, and I would like to meet at 15 minutes to 1:00, realizing that we're going to recess until 1 o'clock, so I would move at this time that the Convention stand in recess until 1:00 p.m. this day.

PRESIDENT GRAYBILL: The motion is to recess until 1:00 p.m. All in favor, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

(No response)

PRESIDENT GRAYBILL: So ordered.

(Convention recessed at 11:35 a.m.—reconvened at 1:32 p.m.)

PRESIDENT GRAYBILL: The Convention will be in order. Members of the Committee, the Chair apologizes for being a half hour late, but, believe me, we've been handling lots of business, so don't worry about it; and the business has been going well, so don't worry. Now, we were on Order of Business Number 5 when the Committee recessed, and without objection we'll be back on Order of Business Number 10. Is there objection?

(No response)

PRESIDENT GRAYBILL: Very well. Mr. Murray, will you make a motion on Order of Business Number 10.

DELEGATE MURRAY: Mr. President, I move that the Convention resolve itself into the Committee of the Whole for consideration of business under General Orders.

PRESIDENT GRAYBILL: The motion is to resolve this Convention into Committee of the Whole. All in favor, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

(No response)

PRESIDENT GRAYBILL: The Ayes have it. Very well. On Order of Business Number 10, we're now ready to take up Style and Drafting's Report Number 9, on Education—10—so get before you the Committee on Style and Drafting's Number 10, on Education and Public Lands; and if you'll turn to page 6, that's the easiest place to follow the text—page 6. Will the clerk please read the title and Section 1 of the bill.

CLERK HANSON: "Montana Constitutional Convention, 1971-72; Report of Committee on Style and Drafting, Transition and Submission on Education and Public Lands, Number 10. Reported March 15th, 1972; John Schiltz, Chairman. Be it proposed by the Education and Public Lands Committee that there be a new article on education, to read as follows: Article. Education. Section 1." Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman. I move when this committee does rise and report, after having had under consideration Section 1, Style and Drafting Report Number 10, it recommend the same be adopted. Mr. Chairman, minor changes in style in Section 1, sub. 1; and I make that motion as to Section 1, subsection 1.

CHAIRMAN GRAYBILL: Very well. Is there discussion of Section 1, subsection 1?
(No response)

CHAIRMAN GRAYBILL: All in favor of Section 1, subsection 1, of the Education Article, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted, Section 1, sub. 2.

DELEGATE SCHILTZ: Mr. Chairman. I move when this committee does rise and report, after having had under consideration Section 1, subsection 2, Style and Drafting Report Number 10, it recommend the same be adopted. Mr. Chairman, no changes except that this became a subsection instead of part of the main section.

CHAIRMAN GRAYBILL: Any discussion?
(No response)

CHAIRMAN GRAYBILL: Very well, Section 1, subsection 2; all in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted. Section 2—subsection 3.

DELEGATE SCHILTZ: Mr. Chairman. I move that when this committee does rise and report, after having had under consideration Section 1, subsection 3, Style and Drafting Report Number 10, it recommend the same be adopted. Mr. Chairman—I should have made this motion first—on line 18, I move that the words "quality" and "free" be interchanged. Someone might slip a hyphen in there sometime and make it read, "system of quality-free public elementary and secondary schools." (Laughter)

CHAIRMAN GRAYBILL: Very well. Mr. Schiltz has styled and drafted, at this late date, to reverse the words "quality" and "free", on line 18. All in favor of that motion, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: All right, your subamendment is approved, Mr. Schiltz; now do you want to go ahead?

DELEGATE SCHILTZ: Mr. Chairman. I move when this committee does rise and report, after having had under consideration Section 1, subsection 3, Style and Drafting Report Number 10, it recommend the same be adopted as amended. Otherwise, minor style changes; nothing significant.

CHAIRMAN GRAYBILL: Is there any discussion of Section 1, subsection 3?
(No response)

CHAIRMAN GRAYBILL: All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: The Ayes have it, and it's adopted. Will the clerk read Section 2.

CLERK HANSON: "Section 2. Public school fund." Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman. I move when this committee does rise and report, after having had under consideration Section 2, Style and Drafting Report Number 10, it recommend the same be adopted. Mr. Chairman, may I first call your attention to the fact that these are not subsections; it's numeration of a series. Secondly, on line 29 of page 6, you'll see that the words "known as school lands" are not struck out. They are struck out over on page 1 and should have been struck out here. We operate with two typewriters, and they don't have a link between them. Otherwise, let me see—Oh, I have an amendment here. On line 6, page 7, of this section, I move that we strike the words "no other" and substitute in lieu thereof "without". Now, that's awfully hard to read unless you go back to page 1—or 2; then you'll see why I did it. At the top of page 2, if we don't do that, it reads: "All other grants of land or money made from the United

States for general educational purposes or no other special purpose", and it reads better if we say, "—or without special purpose", so I offer that amendment.

CHAIRMAN GRAYBILL: All right, the Chair understands that Mr. Schiltz has proposed two subamendments here, one to strike out, just on the page 6 version of Section 2, the words "known as school lands", on line 29; and also, on line 6 on page 7, to strike out the words "the other"—

DELEGATE SCHILTZ: No other.

CHAIRMAN GRAYBILL: —"no other", and substitute the word "without". So many as are in favor of allowing Style and Drafting Committee those preliminary amendments, please say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: Okay; those were approved, Mr. Schiltz.

DELEGATE SCHILTZ: Before I make my final motion, I will say that the rest of it is minor style. And so I now move that when this committee does rise and report, after having had under consideration Section 2, Style and Drafting Report Number 10, it recommend the same be adopted as amended.

CHAIRMAN GRAYBILL: Is there discussion?
(No response)

CHAIRMAN GRAYBILL: Very well, Section 2, as amended; all in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, Nay.
(No response)

CHAIRMAN GRAYBILL: The Ayes have it. It's adopted. Section 3.

CLERK HANSON: "Section 3. Public school fund inviolate." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does rise and report, after having had under consideration Section 3, Style and Drafting Report Number 10, it recommend the same be adopted. Mr. Chairman, there are no changes.

CHAIRMAN GRAYBILL: Section 3. All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted. Section 4.

CLERK HANSON: "Section 4. Board of land commissioners." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I want to make an amendment here. If you'll direct your attention to line 20 on page 7, and—wait, I have to be careful here. All right, I want to make it read this way, Mr. Chairman—I think that it's the best way to say it: "the authority to direct, control, lease, exchange and sell", and then I want to strike "of the" at the end of that line; so it will amount to inserting, after the first "the" on line 20, the words "authority to" and then striking the "i-o-n" on "direction" and the "i-n-g" and substituting an "e" for "leasing" and "sell" instead of "sale".

CHAIRMAN GRAYBILL: And the "of the" at the end of the line?

DELEGATE SCHILTZ: That's struck, yes.

CHAIRMAN GRAYBILL: All right, Mr. Schiltz has proposed an amendment to Section 4 so that the sentence beginning at the end of line 19 will read: "It has the authority to direct, control, lease, exchange and sell school lands and lands which have been or may be granted", et cetera.

DELEGATE SCHILTZ: Mr. Chairman, this we can call the Eck Amendment. Mrs. Eck correctly pointed out that we had gerunds and various other participles, and so we struck them all out so they're uniform.

CHAIRMAN GRAYBILL: Very well. All in favor of allowing this preamendment to Section 4, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: Now, you want to move Section 4?

DELEGATE SCHILTZ: Mr. Chairman. I move when this committee does rise and report, after having had under consideration Section 4, Style and Drafting Report Number 10, it recommend the same be adopted. Otherwise, Mr. Chairman, we have rather minor style changes.

CHAIRMAN GRAYBILL: Section 4.

DELEGATE SCHILTZ: I think I said "as amended"; if I didn't, I meant to.

CHAIRMAN GRAYBILL: All in favor of Section 4 as amended, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted. Section 5.

DELEGATE SCHILTZ: Mr. Chairman. I move when this committee does rise and report, after having had under consideration Section 5, subsection 1, it recommend the same be adopted. Mr. Chairman, minor style changes in subsection 1 of Section 5.

CHAIRMAN GRAYBILL: Any question about 5, sub. 1?
(No response)

CHAIRMAN GRAYBILL: All in favor of 5, sub. 1, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?
(No response)

CHAIRMAN GRAYBILL: It's adopted.—5, sub. 2.

DELEGATE SCHILTZ: Mr. Chairman. I move when this committee does rise and report, after having had under consideration Section 5, sub. 2, Style and Drafting Report Number 10, it recommend the same be adopted. Mr. Chairman, minor style changes—we inserted the word "public" in front of "school funds"; otherwise, struck some unnecessary verbiage.

CHAIRMAN GRAYBILL: Any discussion of 5, sub. 2?
(No response)

CHAIRMAN GRAYBILL: Very well. All in favor of 5, sub. 2, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?
(No response)

CHAIRMAN GRAYBILL: It's adopted. Section 6, Mr. Clerk.

CLERK HANSON: "Section 6. Aid prohibited to sectarian schools"; containing two subsections. Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman. I move when this committee does rise and report, after having had under consideration Section 6, sub. 1, Style and Drafting Report Number 10, it recommend the same be adopted. Mr. Chairman, we did some rearranging in this case but didn't affect the substance in any case and, I think, improved the style.

CHAIRMAN GRAYBILL: Any discussion on Section 6?
(No response)

CHAIRMAN GRAYBILL: All in favor of Section 6, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?
(No response)

CHAIRMAN GRAYBILL: That's 6, sub. 1.

DELEGATE SCHILTZ: Right.

CHAIRMAN GRAYBILL: —6, sub. 1 is adopted. Sub. 2.

DELEGATE SCHILTZ: Mr. Chairman. I move that when this committee does rise and report, after having had under consideration Section 6, sub. 2, Style and Drafting Report Number 10, it recommend the same be adopted. Mr. Chairman, there are no changes in sub. 2.

CHAIRMAN GRAYBILL: —6, sub. 2. Any discussion? (No response)

CHAIRMAN GRAYBILL: All in favor of 6, sub. 2, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: No.

CHAIRMAN GRAYBILL: It's adopted. It

was close, but it's adopted. Section 7.

CLERK HANSON: "Section 7. Nondiscrimination in education." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman. I move that when this committee does rise and report, after having had under consideration Section 7, Style and Drafting Report Number 10, it recommend the same be adopted. Mr. Chairman, there are no substantive changes. We did insert, instead of "person" of line 28, "teacher or student", and I think we borrowed some of that from the comments. And I have gone over it with Mr. Champoux, and he had no problem there. We didn't know—we couldn't see that any such tests would be applied to anybody other than teachers or students; and so that could be a basic change or a substantive change, but I don't think it is. That's all.

CHAIRMAN GRAYBILL: Very well. Section 7; all in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted. Section 8.

CLERK HANSON: "Section 8. School district trustees." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman. I move when this committee does arise and report, after having had under consideration Section 8, Style and Drafting Report Number 10, it recommend the same be adopted. Mr. Chairman, no substantive changes; changes in style only.

CHAIRMAN GRAYBILL: Is there any discussion of Section 8?
(No response)

CHAIRMAN GRAYBILL: Very well. Section 8; all those in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: Section 8 is adopted. Section 9, Mr. Clerk.

CLERK HANSON: "Section 9. Boards of education"; containing three subsections. Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I want to move to amend, on line 30 of page 9, by striking out the word "state". That just slipped in there—or it didn't slip in there, we just forgot to take it out. We've taken it out everywhere else.

CHAIRMAN GRAYBILL: Very well. All in favor of taking "state", before "state superintendent", out of line 30 so it just reads "and superintendent of"—all in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: That's done.
Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman. I move that when this committee does arise and report, after having had under consideration Section 9, subsection 1, it recommend the same be adopted. Mr. Chairman, in connection with this entire Section 9, I should say that it's been completely rearranged and largely—if you'll recall the debate, Mr. Harper made the amendment after a long, hot afternoon; and we got one of those things that said, "If there's any problems here, we'll leave it up to Style and Drafting"; and we took him at his word. I checked with him early this morning, and he thought it was fine; and then I fine-toothed-combed it with Mr. Champoux, and Mr. Champoux, has no problems. There are a couple of minor things that Mr. Champoux and I talked about, and I think I can satisfy him on those privately, without any amendments. Now, as to subsection 1, those are all style changes, but all the substance is there. As to subsection 2, when we get to it: it used to be subsection 3; we reversed the order of those two boards, and so now I move the adoption of subsection 1.

CHAIRMAN GRAYBILL: Very well.
Mr. Rygg, you have a motion here. Do you want to take it up at this time, or—

DELEGATE RYGG: I don't believe it's on subsection 1. But—it's in this same section, if you want me to make it now.

CHAIRMAN GRAYBILL: All right. Well, is it—it's in subsection 2?

DELEGATE RYGG: Yes, it would be—it's 2, now, I believe—that was 3. It would be in 2, now.

DELEGATE SCHILTZ: Well, Mr. Chairman, just to be very careful about those two sections, it would be—it's safer to look over on page 4—or the bottom of page 9 and 4, to see how they've been reversed. They've been cut up quite a lot, and I think they make easier reading over on page 3 and 4.

CHAIRMAN GRAYBILL: All right. Well, I take it that there's no problem with subsection 1, then. Is there discussion of subsection 1?

(No response)

CHAIRMAN GRAYBILL: Very well; all in favor of subsection 1, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: No.

CHAIRMAN GRAYBILL: It's adopted. Now let's take subsection 2, on page 10. In other words, we'll take them in subsection number, but they're out of sequence here. Subsection 2 is the old subsection 3, the Style and Drafting Committee apparently reversing the order of these two boards and the description; is that correct, Mr. Schiltz?

DELEGATE SCHILTZ: That's right. You see, we—all right, go ahead.

CHAIRMAN GRAYBILL: Discuss subsection 2 (a) and (b) and (c), on page 10, please; line 4 to 22.

DELEGATE SCHILTZ: Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: I move that when this committee does arise and report, after having had under consideration Section 9, subsection 2, Style and Drafting Report Number 10, it recommend the same be adopted. Mr. Chairman, these are style changes. It would take an awful lot of explanation to show how we revised all these various things and tried to make the two boards parallel, but they are only style—no substantive changes.

CHAIRMAN GRAYBILL: All right. Now, at this point we're discussing the Board of Regents, right? Mr. Schiltz? Subsection 2 will now be the Board of Regents?

DELEGATE SCHILTZ: That's right.

CHAIRMAN GRAYBILL: All right.

Now, Mr. Rygg, would you like us to read your proposal?

DELEGATE RYGG: Please, Mr. Chairman.

CHAIRMAN GRAYBILL: Do you want to read Mr. Rygg's proposal.

CLERK HANSON: "Mr. Chairman. I move to suspend the rules for the express purpose of reconsidering line 21 on page 4, Article IX"—page 10—

CHAIRMAN GRAYBILL: It's line 21, page 10.

CLERK HANSON: Line 21, page 10, right.

CHAIRMAN GRAYBILL: Of Article X. All right, Mr. Rygg, I'm allowing you a motion to suspend the rules for the purpose of reconsidering line 21 on page 10. Mr. Rygg's motion further says: "My intent"—he has to tell his intent to do this—"My intent would be to add the words 'accounting and' after the word 'some'—'same'—after the word 'same'—so it would be 'are subject to the same accounting and audit provisions'." Now, that's his purpose, and his motion is to suspend the rules. Is there discussion of the motion to suspend the rules?

Mr. Rygg.

DELEGATE RYGG: May I speak on this a moment? I admit I'm really quite concerned about the fact that our University System is now a complete autonomy with very little control by the Legislature. In fact, I suppose I think we've created another Highway Department. However, this body has shown that that's its desire, so I'm not going to attempt to insert the words "as provided by law". I feel about the only control a Legislature has now is the purse strings; and, really, the purse strings aren't much control in education, because we have to give money to education. So I feel that, really, all that's left is accountability—as far as the Legislature is concerned—and I don't think that just an audit will do much good, because auditors can audit anything, but unless there is a unified system of accounting, it's pretty hard for an audit to show a statement that can be read by legislators or any committee or anything like that. So, my thinking is that I believe we should include all institutions in a unified accounting system over the state. I believe it's nearly implemented now. I think that they hope to have it done by July first of this year, and I think it's important enough to include it in there. The Revenue and Finance Committee was considering a proposal like this, but we didn't put it in the Constitution, actually, as a general thing, but our comments did stress very much that we thought it was very important. So my only intent, if this should pass, would be to add those two words so that we could have statewide accounting in there, so that an audit would really mean something, so the Legislature could have true accountability. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Champoux.

DELEGATE CHAMPOUX: Is it within the rules, sir, that I may answer that and defer, after a few comments, to Mr. Heliker for an argument? Sir?

CHAIRMAN GRAYBILL: You want to ask what?

DELEGATE CHAMPOUX: Is it within the rules that I may answer that, very briefly, with just a few sentences?

CHAIRMAN GRAYBILL: You may answer it briefly, but stick to the fact of whether or not the rules should be suspended to do this.

DELEGATE CHAMPOUX: All right. Then later, may I defer to Mr. Heliker, after I make my two sentences?

CHAIRMAN GRAYBILL: Certainly, everybody can discuss.

DELEGATE CHAMPOUX: All right. First of all, I'm absolutely opposed to this. This will accomplish what we spent 8 hours debating, which means that all the control is back in the statehouse. When you're involved in accounting procedures, you're also involved in managerial decisions. And it's just simply another way of getting the same kind of controls. Now, at this point, I'd like to defer to Mr. Heliker. Thank you.

CHAIRMAN GRAYBILL: Mr. Heliker.

DELEGATE HELIKER: Well, I have, Mr. Chairman, nothing in essence to add to what Mr. Champoux has said, except to say that the intent of this amendment is to emasculate the decision that we made to give the Board of Regents managerial authority. If the Director of the State Department of Administration is able to impose internal structure of accounting procedures on the University system, then it means it can take away the managerial flexibility, managerial power of the Board of Regents and put it in the Department of Administration, and this will completely subvert what we debated for many hours and decided to do the other day.

CHAIRMAN GRAYBILL: All right. Now, I'll allow other discussion, but I'm going to hold you closely to the concept of whether we should suspend the rules. We now—I think everybody now sees what the issue is going to be, but—

Mr. Furlong.

DELEGATE FURLONG: Would—Mr. Chairman, would Mr. Rygg yield to a question?

CHAIRMAN GRAYBILL: Mr. Rygg?

DELEGATE RYGG: Yes, I will.

DELEGATE FURLONG: Delegate Rygg, is there anything in this subsection 2, or anything else in Revenue and Finance that you know of, that would prevent the state from implementing in all subdivisions, as a matter of fact, a uniform accounting procedure?

DELEGATE RYGG: Well, I think the way this is written, it could, because they have complete autonomy. I don't think any other section has it—any other department has it; I don't think they have the autonomy that this particular has right now. I think that's why it's needed in this one, yes.

DELEGATE FURLONG: Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Furlong.

DELEGATE FURLONG: I would resist the reconsideration, because I don't believe it's necessary. I believe the state has the authority to establish a uniform accounting procedure throughout the whole of the state. I think they're well on their way to doing it right now, and there's really no purpose in reopening this to accomplish what I think is already being accomplished.

CHAIRMAN GRAYBILL: Mr. Martin.

DELEGATE MARTIN: Mr. Chairman, I resist the motion to suspend the rules, in keeping with a continuing policy of the dinosaur. I hope—I was in support of the position of Mr. Rygg, but in this case, I think that we would do just as we did yesterday on the right to know; we would talk for 3 hours and end up with just exactly the same position.

CHAIRMAN GRAYBILL: Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. Chairman, I'd like to just remind the members of the Convention that, in reconsideration, this is the only opportunity that a one-body house has of looking over what we just did. And this is really something that we offer to the people that feel that something has been done that they can't quite agree with. Now, whether you agree with what he's trying to do or not, I still think that in the way that this body operates, this is the only opportunity he has to say that he isn't satisfied what we did another day. I think we should give him the opportunity to reconsider. I think we should give anyone an opportunity to reconsider pretty near any motion that they want to bring up.

CHAIRMAN GRAYBILL: Mr. Toole.

DELEGATE TOOLE: Mr. Chairman, I'll be very brief. This is just a hashing over what we've hashed over. It's an attempt to ram down the throats of the University System an accounting system to which they cannot possibly adjust, and I suggest to you that if there is uniformity of accounting required, that this can be done by computers.

CHAIRMAN GRAYBILL: Mr. Artz.

DELEGATE ARTZ: Mr. Chairman. There's been about 10 to 15 years spent trying to get a uniform system of accounts for the State of Montana.

CHAIRMAN GRAYBILL: Mr. Artz, how's that—that's argument, isn't it? I don't want to interrupt you, but—

DELEGATE ARTZ: No, I merely answered Mr.—

CHAIRMAN GRAYBILL: I'm interested in arguing the issue of whether we should suspend the rules. I don't care how long ago we've had accounting or where we are in the accounting business; we'll debate that if we suspend the rules. Now, if you want to say you're for it or something, that's fine; but don't talk about the accounting system yet. In other words, the motion is to suspend the rules. Are you for or against that, and what are your reasons? And they're not supposed to be the reasons that we're going to debate later.

DELEGATE ARTZ: Well, the reason I was for it, Mr. Chairman—and stop me the minute I get out of order—but we had hired Touche, Ross, Bailey and Smart to come in and determine that we needed this. We thought we still needed it, and their statement said: "Accounting systems have developed more or less independently of each other. Consistent application of generally accepted government accounting practices and principles does not exist. This deficiency makes the interpretation and comparison of financial information for planning, operating and controlling government activities difficult and, in some cases, nearly impossible.

CHAIRMAN GRAYBILL: All right. Now, that seems to the Chair to be clearly argumentative.

DELEGATE ARTZ: Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: The issue is clearly drawn here that if we suspend the rules, we're going to debate accounting in the University System; but I want to know if you have any more to say about whether or not we should suspend the rules, not about the accounting system.

Mr. Drum.

DELEGATE DRUM: Mr. Chairman, I, too, would support the—suspension of the rules. I think the question is so important for the future of all involved that, if there is any question in the minds of this body here, I think this is the time to clarify it and come to an agreement. Thank you.

CHAIRMAN GRAYBILL: Mr. Arness.

DELEGATE ARNESS: Mr. Chairman, I have previously felt, like Mr. Martin, that it wasn't proper to reconsider, and I've resisted all the prior motions to reconsider. If—After listening to Mr. Eskildsen, it has occurred to me that the reasons that I have formerly felt that it was improper to reconsider for were reasons that would be more properly applicable in a court, rather than in a deliberative body. Since this is not a judicial proceeding, but a—in fact a deliberative proceeding, I think that it is proper for us to reconsider; and I have decided that I have been wrong; and so I publicly confess the error of my ways; and I intend from now on to vote for, rather than against, reconsideration every time it comes up. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Harlow.

DELEGATE HARLOW: Mr. Chairman, being a strong advocate of unicameral system and this being a unicameral body—and you must reconsider things in unicameral; you can't put it over to somebody else to do—I'm strongly in support of the motion to reconsider.

CHAIRMAN GRAYBILL: Very well. The motion is to reconsider Mr. Rygg's—or the motion is to suspend the rules so we can reconsider. It's Mr. Rygg's motion, and his purpose is to consider line 21—I think the Chair will rule that the purpose will be to consider anything under sub. (d), which would be lines 20, 21 and 22, because I don't want to fix it so we can only talk about one gap in the sentence. Anybody—If we reconsider, it will be to consider the matter of "The funds and appropriations under the control of the Board of Regents are subject to the same audit provisions as are all other state funds." Now, so many as shall be in favor of that, vote Aye on the voting machines; and opposed, No. It's not a roll call vote, but I must know the total, since the rules provide that it requires two-thirds or 51 percent, whichever may be less. Has every delegate voted?

(No response)

CHAIRMAN GRAYBILL: Any delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well. The ballot is 52 to reconsider, 42 not to, so we will reconsider—or we will suspend the rules, rather—suspend the rules.

All right, now, Mr. Rygg, do you want to make a motion to reconsider?

DELEGATE RYGG: (Inaudible)

CHAIRMAN GRAYBILL: All right, Mr. Hanson will make the motion.

Mr. Hanson.

DELEGATE HANSON: Mr. Chairman, having voted on the prevailing side on the question involved, I now move that we reconsider Section 9, subsection 3—or whatever it is—part 3—for the express purpose of adding the words "accounting and"—I can't read my writing—before the word "audit" on line 21, page 10, of the Style and Drafting report.

CHAIRMAN GRAYBILL: Mr. Hanson, will you allow me to state your motion as 9-3-(d), the way I said it awhile ago, so everybody is together?

DELEGATE HANSON: Yes, I will. Correct—right.

CHAIRMAN GRAYBILL: Nine-three-(d)—the motion is to reconsider Section 9-3-(d). All right—Well, it's 9-2-(d); it used to be 9-3-(d). Okay. It's sub. (d), lines 20 to 22 on page 10. All right, the motion to reconsider has been made.

DELEGATE HANSON: Mr. President, I'd like to defer at this time to my accountant, Delegate Artz.

CHAIRMAN GRAYBILL: Mr. Artz, can you discuss the motion to reconsider?

DELEGATE ARTZ: Mr. Chairman, I'm all in favor of the motion to reconsider. I'm not sure, under the rules, exactly what I can say, but we do need a lot of change. We need those words in. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: All right. The motion is to reconsider Section 9-3-(d) of the Education Article. All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

CHAIRMAN GRAYBILL: The Ayes have it, and the motion carries.

Mr. Rygg.

DELEGATE RYGG: Mr. Chairman, I move to amend 9-2-(d) on line 21 by adding the words "accounting and" after the word "same", so that it would read: "The funds and appropriations under the control of the Board of Regents are subject to the same accounting and audit provisions as are all other state funds."

Mr. Chairman.

CHAIRMAN GRAYBILL: Very well, everyone should understand that he wants to add the words "accounting and" on line 21, after the word "same".

Mr. Rygg.

DELEGATE RYGG: Mr. Chairman. Basically I have covered this before; I'm not going to belabor the point. I honestly feel that we're not doing away with what we did before. I don't think this is in any way hurting the autonomy of the University System. I feel that there has to be some regulation from the Legislature; I think, because they are spending the taxpayers' money, I just think that we have the right to have the accountability of it. I don't believe that such an accounting system is going to overturn the internal policies, because—the one they are working, I think, is now a WICHE program, which is used in all states; and from all the information I can gather there, it's not going to work a hardship on the University. I think it's true that probably the Controller can switch that into it, but it still would come out the same. There is another reason for this, too. We have required—in the previous section, I think it was—that they have unified budgets, and unless the accounting procedures are the same, it's going to be very difficult to anyone to work out a budget, because I can't imagine that just a sum brought in to the Appropriations Committee is going to be acted on that way. I think they are going to have to have some knowledge of what it is, and I think the six universities are also going to have to have some knowledge of rearranging this, in case they wouldn't get the full amount. And as it has been in the past, the four main captions, probably, of Personnel, Capital, Operating Expenses have not always been the same in each institution. Under Operating Expenses in one, there will be several account numbers, and the other institution, it'll be different—and the same with the other headings. And when you do it that way, it's just about impossible to know how you're appropriating it or how it's being spent. So I have given up the idea of getting a control of the University System, as I said, and this is strictly an accounting procedure and showing the accountability. And I can't understand why it should hurt anything in the University System. They're nearly on it now. I just want to make sure that an audit will mean something, and I don't think it's meaningful unless the same accounting system is throughout the system. I think the Legislature and the Appropriations Committee are entitled to have a readable financial statement, whereas if it were the other way, it would just be the auditors that could read it. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Barnard.

DELEGATE BARNARD: Mr. President, I rise in support of the motion to amend. I think that if I were sitting at the head of one of the University Systems in—I'd want this accounting system in my own self defense, to—because of the fact that I'm using public money. I would want to be sure that the public knew where the money went and how it was used and it was used in the way it should be. And there's quite a little difference between an audit and an accounting system, and again, I think the people of the University System and the Board of Regents are—that the people are entitled to know where this money went and how it went.

CHAIRMAN GRAYBILL: Mrs. Eck.

DELEGATE ECK: Mr. Chairman, would Mr. Rygg yield to a question?

CHAIRMAN GRAYBILL: Mr. Rygg?

DELEGATE RYGG: Yes, I'll try.

DELEGATE ECK: Mr. Rygg, I'd like to know just how much this—accepting the state auditing means. Would it mean, for instance, that there would be preauditing, where expenses would have to be approved by the state beforehand, and would it go over into the area of personnel at all?

DELEGATE RYGG: Not to my understanding of it, no; it's just the—that the actual bookkeeping, accounting numbers, would mesh with what the state has, even if it has to go through a computer to do it. It's just so they can have an accountability of where the funds were appropriated and where they were spent. As far as I know, it has nothing to do with preaudit. I know that—Mr. Champoux is showing me what North Dakota did—and in that it included a preaudit, but I didn't think that could be done here, because I think they'll handle that right in their own, the way it's set up.

DELEGATE ECK: Mr. Chairman, would Mr. Artz yield to a question?

CHAIRMAN GRAYBILL: Mr. Artz?

DELEGATE ARTZ: (Inaudible)

DELEGATE ECK: Mr. Artz, would you also agree that this wouldn't affect either any checks on personnel or on preauditing?

DELEGATE ARTZ: Delegate Eck, as far as I'm concerned, the only purpose of adding this word is to see that we have a uniform system of accounting throughout the state. Now, as I tried to mention at first, the Forty-first and the Forty-second Legislative Assemblies made specific appropriations to get this done. They hired an outside firm—a national firm, Touche, Ross, Bailey and Smart; one of the eight national firms in the United States—to make this, and they came back, as I mentioned at first, and said that there was a terrific lack of uniformity. And all we're trying to do is—we don't care how the University System—or where they buy their apples or where they buy their oranges, but we want them classified as apples and oranges, the same as everybody else does. In other words, to insure that when the Legislature gets reports, they will be in conformity with the reports they get from the other state agencies. It's taken about 15 years to get this accomplished, and I'd certainly hate to see one branch of the government or one agency of the government slip out through this thing we put in here the other day. Does that answer your question?

DELEGATE ECK: I believe it does. Thank you very much.

CHAIRMAN GRAYBILL: Mr. Driscoll.

DELEGATE DRISCOLL: Mr. Chairman. I rise in support of the amendment, and I'd just like to say a word to the body here. I hope they've listened to the words of Mr. Lloyd Barnard with a deep sense of care. I'm sure you're all aware that Mr. Barnard was in this position as Chairman of the House Appropriations Committee.

CHAIRMAN GRAYBILL: Mr. Toole.

DELEGATE TOOLE: Mr. Chairman, I wonder if the body realizes the fundamentally unique nature of an institution of higher education. To try to impose a businesslike system of accounting on a University System has proven to be unworkable and impractical. As Mrs. Bugbee said at length the other day, you find Deans—highly paid Deans—running around with requisition orders for paper clips and typewriters; and I'm not going to repeat that over and over again. But to try to impose this, we found that after the University System be—came under the Department of Administration, there was greatly increased cost to the University System by reason of having to comply with a system of accounting that was designed for something like the Fish and Game Department or the Board of Health or something else. You have a completely unique type of institution which does not lend itself to the kind of an accounting system that Mr. Artz is talking about. I know from personal experience in dealing with the University that this imposition of a uniform accounting system on the University has greatly increased their costs, immeasurably increased their costs, and I think they simply have to be let alone to work out their accounting system in the best interests of the student body and of the people of Montana. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. McDonough.

DELEGATE McDONOUGH: This will be short, Mr. President. We spent, oh, 15 minutes to an hour or two on the public's right to know in the Bill of Rights section. I think this is just as important as the public's right to know. What we're actually doing by putting this in here and making uniform accounting methods is that the Legislature also has the right to know, and so doesn't the public have the right to know how the money is to be expended and has been—not to be expended, but has been spent? And this is only a logical deal to implement—and very efficiently implement—the Legislature's and the public's right to know how the money is spent in the University System.

CHAIRMAN GRAYBILL: Mr. Heliker.

DELEGATE HELIKER: Mr. Chairman, I'm not an accountant and I will not be able, therefore, because I've not been immersed in this question as an accountant would be—but I have consulted with University System accountants on this matter. This is not a question of accountability—we have written accountability into the section as it is now written—it is a question of managerial control. Now, I have a five-page brief on the subject here, which I am not going to read to you in its entirety, but because I think you must be informed on this as to exactly what the issues are, I'm going to ask you to bear with me for a few minutes while I read part of it. "Unquestionably"—I read from this report—"unquestionably, a state-supported university is part of a larger accounting entity, the state, which is subject to specially formulated and defined governmental accounting principles which apply to the state as a whole. However, unlike most other state agencies, a university is subject to generally accepted accounting principles of its own, which must take precedence in designing an accounting system if the information reports provided by that system are to be meaningful. This concept is widely accepted by the profession, as evidenced by Donald C. Bruggeman and Gerald D. Brighton in October, 1963, issue of *Accounting Review*, where they state: 'There is truly a separate and distinct set of generally accepted accounting principles for colleges and universities.' What, then, are these generally accepted accounting principles as applied to universities, and what constitutes authoritative support for these principles? The general answer to the first part of the question is the principle of separate, distinct fund groups. This broad principle is recognized by W. Lynn Fluckinger, C.P.A., in the August, 1963, issue of the *Journal of Accountancy*, where he writes: 'One other concept peculiar to reporting for fund type enterprises should be mentioned. While an institution will have only one general fund, it might have many, perhaps hundreds, of designated funds. In such cases, it becomes, obviously, desirable that these funds be grouped for reporting purposes. When funds are grouped, it is necessary that they be grouped by like purposes and restrictions so that the assets applicable to them can be reported jointly and the various accounting statements, when combined, will be meaningful. The fund groups which are applicable to the various types of institutions are usually designated in the related accounting literature. The composition of these groupings should be followed carefully. Specifically, the need for this principle of separate fund groups as applied to universities was stated in the *Finance of Higher Education*, by J. D. Russells, as follows: 'The separate nature of each of these fund groups cannot be too strongly emphasized. In dealing with each kind of asset, the institution should consider itself practically a separate enterprise. Thus, in caring for current funds, the institution acts as an operating corporation. In handling student loan funds, it acts as a commercial credit agency. In managing endowment, its actions are those of investment trusts. The accounting procedure must segregate the transactions in each fund group just as vigorously as if entirely separate managing corporations were involved.' A review of the nation's colleges and universities would soon reveal that *College and University Business Administration*, Revised Edition, is by far the most widely used accounting reference. That this edition recognizes the principle of fund group accounting is evidenced by the following article in the March, 1969, *Journal of Accountancy*. That authority continues to recommend as a basic principle that the accounts of colleges and universities should be classified in balanced fund groups; not only in books of account, but also in financial reports. In addition, all financial transactions should be recorded and reported by fund groups. The authors of this article, Ralph S. John, C.P.A., and Howard A. Whitney, C.P.A., are partners of the national C.P.A. firms of Haskins & Sells, and Peat, Marwick, Mitchell & Co., respectively. They represented their firms, which in turn were chosen by the A.I.C.P.A. to represent the profession as consultants to the American Counsel on Education. This article also recognized the general acceptability of *College and University Business Administration*, Revised Edition, with the following: 'In the opinion of the writers, *College and University Business Administration*, Revised Edition, is the authoritative guide in accounting for colleges and universities. It is well prepared and contains as complete a statement of accounting principles applicable in a specific area in accounting as is currently available in any area.' Having established that there is a distinct set of generally accepted accounting principles to apply to universities, it then becomes necessary to address the conflict that arises when, as in—the proposed Statewide Budgeting Accounting System proposed by the Department—the Director of the Department of Administration does, an attempt is made to include a university accounting system under the same broad funds that apply to a state government. Basically, the problem arises because of a misconception in the definition of fund groups; that is, that a direct correlation can be drawn between the funds in a state accounting system and the fund groups in a university accounting system. For example, it may appear at first glance that a general—state general fund may correspond to a university's current unrestricted fund group or that a state, federal and private revenue fund may correspond to a university's currently restricted fund group or that a state agency fund may correspond to a university agency fund group. When these assumptions are approached with adequate knowledge of a university's accounting problems, however, these simplistic correlations soon prove false. An attempt, therefore, to force a university accounting system into the broad spectrum of a state government system without special recognition of the uniqueness of university accounting will result in the production of inaccurate and inadequate information, at best, and mass confusion substantially—and substantially increased workloads, at worst." Now, I read you just enough to give you an idea of what is involved. This is a highly technical matter, but the nub of the matter is this: that the Department of Administration does have the authority now to require a reporting framework, which is controlled by the Director of the Department of Administration, in the disbursement of funds. All of the funds of the University System are kept in the state treasury, and state warrants must be drawn and processed by the Treasurer and charged to an account that is structured in the treasury and which the Director of the Department of Administration has the power to control. Now, the proposal which the State Director has made would give him the authority to structure not only that reporting framework, but the internal accounting of the University System, which is a management tool and without which the University System will find it difficult to manage. Now the Legislature and the Executive have plenty of authority, without having the authority to structure the internal accounts of the University System, to control the University System. You have the purse strings held by the Legislature. You have the post-audit—legislative audit—by the Legislature; you have the University accountable to the Legislature through that procedure. You have the Governor on the Board of Regents. It is not conceivable that the Board of Regents could run contrary to the wishes of the Governor, as a matter of fact, with the Governor as the Chairman of this board. Now, these institutions that we are talking about—of higher education are set up—and they're out there to do a very important and very special job for the people of Montana, and they are not set up to be the playthings of an accountant or set of accountants in the Department of Administration in Helena. And I say to you that what we adopted the other day and what is contained in this provision is to give the Board of Regents and University administrations the power to manage those units effectively, and that is the power that I hope you will leave to them. I hope you will confirm that principle, but if you adopt this amendment, you will be reversing 180 degrees and you will be imposing upon the University System, through the control of their internal accounting, effective managerial control by the Department of Administration.

CHAIRMAN GRAYBILL: Mr. Champoux.

DELEGATE CHAMPOUX: Very briefly, if I may add to that, sir, let's note the fact that no Constitution—none—in the United States has anything concerning accounting systems in it. Now, the University isn't—and I want to emphasize this—the University isn't against getting into the state accounting system. They aren't. Let's get that understood. Now, the problem is, they have their own accounting system; it's the educational accounting system. Now, what would be agreeable? It would be this, as Mr. Toole pointed out: that the State Administration office work out a computer program and simply include the educational accounting system in the statewide system. And it is not something that you do through a constitutional amendment, and I want to make that clear. Now, let's look at this state accounting system; let's really look at it. Well, we can't. You know why? It isn't in existence. So, what we're talking about is a system that isn't in existence. Not only that, when the system was being proposed, the state accountants in the Administration office did not go down and consult with any of the educational—accountants in the educational units—none of them. Now, my question is—and I'm going to leave it with you: is this system ever going to change, this statewide system? Are all others going to change in the future? If we tie this in, it will be too inflexible. Does this mean, for instance, that we always will have a statewide system of accounting? Not necessarily, since we have lived without one for 88 years. Thank you.

CHAIRMAN GRAYBILL: Mrs. Speer.

DELEGATE SPEER: Will Mr. Heliker yield?

CHAIRMAN GRAYBILL: Mr. Heliker?

DELEGATE HELIKER: I yield.

DELEGATE SPEER: Mr. Heliker, you said that this was a matter of internal management, I believe.

DELEGATE HELIKER: Yes.

DELEGATE SPEER: Now, does this not mean, then, that the courts could interpret, if this decision to include accounting were put in the Constitution—could the courts not then interpret almost any internal management function as to be under the Legislature?

DELEGATE HELIKER: Well, this is the heart of the managerial function. I have no idea what the courts would interpret.

DELEGATE SPEER: Well, my point is, Mr. Chairman, that this could be carried into far other areas through interpretation by the courts.

CHAIRMAN GRAYBILL: Mrs. Speer, are you finished?

DELEGATE SPEER: Yes, thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Let's see—Mr. Mahoney.

DELEGATE MAHONEY: Mr. Chairman, I've heard these good old decisions before, these old arguments—we can't operate—I've heard them for years, and I think this thing could operate just nicely under the government, the state government—Legislature, Governor and all—and I don't see any sense in going out and giving them this exclusive right just because they're the University System. I don't know, maybe two and two isn't four in different accounting, but that's what I get back to. And I heard this discussion that they can't operate and the people of this state voted for 20 departments and in these 20 departments, the Governor and the Legislature, in their wisdom, set up a Department of Business Administration. And all they have to do is live under it, and I'm sure that we—the University won't close if they get under our—rest of our government.

CHAIRMAN GRAYBILL: Mr. Melvin.

DELEGATE MELVIN: Mr. Chairman, may I direct a series of questions to Mr. Rygg?

CHAIRMAN GRAYBILL: You may.

DELEGATE RYGG: I yield.

DELEGATE MELVIN: Mr. Rygg, it seems to me like we're beating all around the bush. Are we suggesting that because the accounting system that the University System has—that it isn't adequate? Or are we suggesting that some funds may be being spent that are covered or not being shown by the present accounting system?

DELEGATE RYGG: I don't know that we're suggesting that at all. We're just suggesting that we have everything in the state in the uniform system so that an audit can be meaningful. In talking with the budget—the post auditor yesterday, he said they can audit anything and they can understand it, but unless it has a uniform system, they can't put out a—meaningful statements that could be understood by a layman. So I think in the past there certainly has been some evidences of things being covered up, but I don't think that's what we're aiming at now, no.

DELEGATE MELVIN: One more question. Has there been any discussion, that you're aware of, Mr. Rygg, between the Legislature and the University units concerning the accounting system and the objection that they have to state accounting or the system set up by the state?

DELEGATE RYGG: Yes, there has been in the past. There's been a difficulty in reading them, and I think, as Mr. Artz noticed that—noted, that in the last 12 or 15 years, they've been trying to get this coordinated so they would be in a statewide system. And I understand that they are now working under the WICHE system, which can be used and is used by other states and does coordinate with the state system, and I think this is to be implemented very shortly.

DELEGATE MELVIN: Thank you.

CHAIRMAN GRAYBILL: Mr. Arbanas.

DELEGATE ARBANAS: Mr. Chairman, fellow delegates. I would rise to support what Mr. Heliker said. I think I would be amiss not to give testimony to 20 years of some school administration, to say how different it really is. I'm surprised with this move on the University System, so to speak, that we don't have a similar move on our grade school and high school system. I think we recognize the uniqueness of that control, and yet we want to take away, almost, from our University Presidents and—that autonomy which is necessary to operate a school. I would find the move that's being made here not much more ridiculous—to me, anyway, with my experience—than to ask our elementary schools to take on the bookkeeping system of the Department of Agriculture or our high schools to take on the bookkeeping system of our Highway Department.

CHAIRMAN GRAYBILL: Mrs. Cross.

DELEGATE CROSS: Mr. Chairman, again we come down to a difference in basic philosophy, and I think we all understand how many people are involved in a University System. It isn't just the teachers and the administrators; it involves a great many young people. I wonder if Mr. Rygg would yield to a question.

DELEGATE RYGG: Yes, I yield, Mr. Chairman.

DELEGATE CROSS: Mr. Rygg, in your remarks, it raised a question in my mind. Does each unit of the University System, then, do their accounting as each one wants to do it, or are the units within the system on a uniform system, or how much variation is there?

DELEGATE RYGG: I can't answer you how much variation there is. There has been a great deal of variation in the past. They are gradually getting into being more uniform; but, yes, different universities in the six systems will have different account numbers under the account headings. That's true.

DELEGATE CROSS: Thank you.

CHAIRMAN GRAYBILL: Mrs. Bugbee.

DELEGATE BUGBEE: Mr. Chairman, I'd again like to repeat that no one has asked me to speak, not on this floor and not in the rest of the state. I really feel that it is absolutely tragic that this body would not be able—cannot be able to read the Eisenhower report of 1957 before we vote on this. Essentially what they are saying is that all over the country this is happening; as departments of state centralize and centralize their administrative procedures, that higher education coming under this is slowly being smothered. Now, as I said the other day and I will repeat—also my husband feels this—with every passing month, practically, the paperwork is going up; the difficulty of getting the right size paper clips, the difficulty of doing this, of doing that is absolutely drowning these people. If, Mr. Rygg, what you wanted was a unified accounting system between the University departments, that would be fine by me; but to put the whole higher education department under the Department of Administration, so that everything—all buildings go under them, this is what I object to, and it seems to me this is what your—what this amendment would mean. And—this is what I'd like to be sure of. If they are alike—you understand what I mean? If they have to be alike and unique, all six of them the same, that is fine; this sounds very logical to me. But it's when they come under the Department of Administration for every bloody paper clip and building—science building, complex and everything else—that higher education and the delicacy of teaching begins to fall apart, and this is the whole thrust of this Eisenhower report. And I repeat, this is something that is happening nationwide; and it seems to me that we are going to do exactly what they are predicting is happening in higher education: it is becoming less and less sensitive to the need that it needs to fulfill, which is teaching.

CHAIRMAN GRAYBILL: Mr. Drum.

DELEGATE DRUM: Mr. Chairman. I, too, would like to rise in support of the amendment and make a couple of comments. One, I've learned to respect Mr. Artz' wisdom. He's a Certified Public Accountant and he has used extremely good judgment in our Finance and Revenue Committee, and I'm certainly willing to listen to him in this matter. I would suspect that if the universities or the higher education system were on a unified system of accounting—which, probably, the reason they are not now; and we've heard people say that they are striving for this at the present time, because I think they all recognize that higher education may be better off as a result of it—it's kind of painful at times; but the people who sold computers here several years ago happened to sell one flavor to one higher education unit and another flavor to another, and this is part of the problem now. But the people that I have talked to in higher education agree that this would be a good thing; but if the audit time of the legislative post-audit could be cut—and unified accounting would certainly cut the time that they have to spend making the audit—I think it would be a—effect quite a savings to the state. I think responsible people in—whether it's in a business or in education or wherever—really learn to respect and desire good accounting systems, because it relieves the minds of those. It's good—it creates more efficiency and it makes them look like winners if we have good accounting. I'm not sure just what all the problems are that we have over at the University now, but good accounting may have eliminated some of those problems. Now, for the—each school or each one to say, "We have different problems here and different problems there", I would wonder if perhaps J. C. Penney might not have different problems in, say, their New York store than they have, say, in the Billings, Montana, store. But they've overcome these problems, and the reason that J. C. Penney and Sears & Roebuck and people like that win is because they have unified accounting. They create a situation where they save money and they pass it on to the taxpayers—or to the purchasers. I think perhaps this same result could come in our higher education system. It may be a tax saving down the road for the taxpayers of the State of Montana. And if the Legislature could be—the real important point is if the Legislature can be better informed, it will be more responsive to the needs of the higher education and the people will be more responsive. That is the important point, as I see it, Mr. Chairman. Thank you.

CHAIRMAN GRAYBILL: Very well. The issue is on Mr. Rygg's amendment to add the words "accounting and" on line 21 of page 10 of the Education report of Style and Drafting.

Mr. Burkhardt.

DELEGATE BURKHARDT: I haven't had time to check with the Chairman of our committee; I would like to maybe ask him a question at this point in relation to this amendment. I wonder if Mr. Champoux would yield.

DELEGATE CHAMPOUX: I'll yield.

DELEGATE BURKHARDT: Rick, I was going to write you a note, but what I was wondering was if, for instance, on line 21, you read: "The funds and appropriations under the control of the Board of Regents shall be accounted for in a uniform manner and then subject to audit provisions as are all other state funds", you would gain a nudge toward uniformity in between units, but you would not be turning over to the State Administration Department the managerial function. I wonder if this, as you look at it, would have some possibilities in terms of what the group really is seeking—and that is, some kind of measurable and discernable understandable accounting system; not necessarily the system of the state, but a uniform system within the various units of the Board—or the system of education. Now, that's a long question. Let me read it to you again. After the word "Regents", on line 21, to insert "shall be accounted for in a uniform manner, and subject to the same audit provisions as are all other state funds."

DELEGATE CHAMPOUX: Okay. First of all, let me say this: that within the University Systems, there is a uniform system of accounting recommended by WICHE, the Western Interstate Compact on Higher Education, which covers all of the western United States, all of the university systems, all the college systems—they're all going to have the same kind of accounting. For—It's been recommended—this kind of accounting has been recommended by the Commission—by the United States Commission on Higher Education. Now, it's estimated by—They have all of it implemented in the different units right now. The only thing that's lacking is coordination between the units; they figure they'll have that finished by July. And this is another reason why—you see, now, they've been working on this; they're ready to go on-stream with it; it's working within the units. They're ready to go on-stream with it between the units, and now they're being told, "Well, we've got to hold; wait a minute; we now want you to bring in—come in on the new kind of accounting system that the state's going to impose." Does that answer your question, sir?

DELEGATE BURKHARDT: Rick, as I read this, did it seem to you to be clear in its delineation of the function? In other words, it would still be under the control of the Board of Regents, but it would be necessary for them to account in a uniform manner; and you say it's already happening?

DELEGATE CHAMPOUX: Yes. If you want to add "internally", it would probably be better.

DELEGATE BURKHARDT: Internally?

DELEGATE CHAMPOUX: Yes. That would be acceptable, Bill.

DELEGATE BURKHARDT: I would like to propose a substitute amendment for the amendment before us, which maybe I would trust our Chairman of this committee to work on a bit and bring to you, Mr. Chairman, rather than myself in some kind of an offhand way. But I would so move that we put in a substitute amendment at this point, rather than the amendment which is now before us; and I would like our Chairman of the committee to bring it forward, if he would.

CHAIRMAN GRAYBILL: I'm sorry. Now, the Chair isn't going to accept a motion to amend that isn't in writing and that you're asking somebody else to prepare. Go out in the hall and prepare your motions; I don't care. But I'm not going to sit around; we're going to debate it while we do this.

DELEGATE BURKHARDT: Well, if you know that's what we're working on, why, maybe you won't vote too fast. Okay?

CHAIRMAN GRAYBILL: I don't control this system, I only run it.
Mrs. Eck.

DELEGATE ECK: Mr. Chairman. I'll tell Mr. Burkhardt before he goes why I don't agree with what he's proposing, because I think that the difficulty here is in the very last phrase here, where the accounting system must be the same as those of other state agencies, or however it's worded.

CHAIRMAN GRAYBILL: "—are all other state funds—"

DELEGATE ECK: Yes.

CHAIRMAN GRAYBILL: "—as are all other state funds."

DELEGATE ECK: Yes. Right now, the University System is developing a compatible system so they're compatible among themselves and with other units. Now, I think that you could ask them to develop a system that is compatible with the sytem that our Department of Administration uses. I think you could have a system that is compatible with this system, as well as being compatible with the system that is used throughout the University System. But, really, to ask them to use the same system is making them possibly not compatible with whatever WICHE uses. I think that the real problem we're dealing here—with here is that it would be possible, and I think this is what the universities are afraid of, that the whole accounting procedure be moved, really, out of the hands of the Board of Regents and into the hands of the Board of Administration; and whereas, all the Penney's stores all over the United States might be able to use the same accounting system, it might not be a system that would also be appropriate, say, for all the fish and game departments all over the country. In using a system of accounting as the states do in developing a program, planning and budgeting system, this is a little difficult at times to transfer into a University System, because a university has to evaluate, based on different values other than cash values, what their money is being spent for. And for this reason, I think that university systems might find occasions where their system cannot be the same, even though it could be compatible; and I really think that this is what we're looking for. And I think that if amendment came up that would do this, it would be quite appropriate. Thank you.

CHAIRMAN GRAYBILL: Mrs. Bugbee.

DELEGATE BUGBEE: Mr. Chairman, Mr. Drum is a dandy person. I like him very much, but I really think it is simplistic to equate the University System to J. C. Penney's or Sears-Roebuck. Obviously, there are deep differences.

CHAIRMAN GRAYBILL: Mr. Conover.

DELEGATE CONOVER: Mr. Chairman, will Mr. Rygg yield to a question?

DELEGATE RYGG: Yes, Mr. Chairman, I'll try.

DELEGATE CONOVER: Sterling, by leaving this out, the way it was written before, would this have any effect on the legislative audit that does now pertain to the University Systems?

DELEGATE RYGG: Well, it'll make this difference in that the legislative post-audit can post-audit anything, you know, and they can audit it, no matter what system of books you have anywhere, but they would not be able to bring in a meaningful statement so that it could be read by the average legislator or anyone in the Appropriations Committee. They can audit anything, any bookkeeping system, anywhere. But what they bring back, the meaning—the statement would not be meaningful.

DELEGATE CONOVER: Thank you, Sterling. Well, the one thing that concerns me, then: why is the University so afraid of having somebody audit them? This I don't understand. I would like to hear from somebody that—to speak on this, except the professors from the Universities. This is the only one that we've heard, is from that side. I'd like to hear the other side awhile. Thank you. Mr. Chairman.

DELEGATE TOOLE: Mr. Chairman, I'm far from being a professor at the University, but I've had a lot of experience with the—how the University operated before we had a Department of Administration, when it operated efficiently with a small crew and was able to conduct its affairs to the satisfaction of the people of the State of Montana and there never was any problem with the accounting. But now, since they're operating under the Department of Administration, there's an army of people out there at taxpayers' expense, running around, trying to conform to accounting principles which are not adapted to higher education. And I submit to you that it is costing the taxpayers a great deal of money, which is not necessary if the University System were permitted to manage its own financial affairs. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Davis, you were up.

DELEGATE DAVIS: I think Mr. Roeder was ahead of me, sir.

CHAIRMAN GRAYBILL: Mr. Roeder.

DELEGATE ROEDER: Mr. Conover, I rise, not to offer any apologia for the University System or its leadership, but I do think what I see here is a mutual distrust—and perhaps it's deserved. I think there's a feeling on the part of some people—perhaps Mr. Rygg feels this way—that the University leadership does not always do what it ought to do, and maybe that's the case. On the other hand, I think the University people are deeply suspicious of bureaucrats in Helena—and maybe that's as it should be, too, because, you know, really, the two big problems of our society are garbage and bureaucracy. Now, I submit that there are probably real problems here—that—and there probably is basis in reality for both areas of suspicion; but if I may tear a page out of the book of Mr. McDonough here, the way to deal with this is in a normal political and administrative process and not in the Constitution. You've said in here that the Board of Regents shall be the governing body for the University. So be it. Work out the other problems in the course of normal political life.

CHAIRMAN GRAYBILL: Mr. Davis.

DELEGATE DAVIS: Mr. President, delegates. The other day I thought it was—be a good idea to have a little compromise here between the influential nonbureaucratic educating people, who have control of a lot of funds, and the people that wondered about this and suggested we put the financial control in the Legislature and give them complete academic freedom and complete administrative freedom. Now, when that didn't pass and when you gave complete financial control, by a strong vote of this thing—well, let's leave it that way. That's what you gave it to—the Board of Regents—and if they got it, don't start writing accounting procedures in a Constitution. There's no place for it. Either go all the way, or stay home—one or the other. Once you got this far, you might as well leave it that way. Now, I think, of course, you have a very strong consensus of people here in the educational field, which is—more power to them. They ran, and they got elected, and that's their baby; and they're not looking after their own salaries, I don't think, but they're interested in their field; and it is a big field. I don't agree with Mr. Toole when he gets up and calls the Highway Department a bureaucracy and then says that the education field is pure. I'm sure that there's lots of places in the field of education that money can be spent, to. But that's what they're going to work on. But that's what you put the Board of Regents in there for; they're all citizens. They're going to run this thing; they're going to require accounting procedures. And they're not going to go to the Legislature and say, "We're not going to go without some accounting", because they know the Legislature is not going to give them 5 cents unless they're satisfied. The Legislature still has to appropriate the money. So I think you should stay with the majority report; forget about—you've got this far with it; you've given complete financial, academic and administrative freedom and autonomy in the University System—and that's where it is, and so you might as well leave it there. There's no use starting to qualify it at this late date in the game. And you're going to have to rely upon the Board of Regents, and they have complete power—not the administrators, not the educators; the Board of Regents. If you have confidence in them—and they're appointed—and this is Friday, and remember, it's the odd—even days when we have a great confidence in appointed people; it's on the odd days that we have confidence in the elected people. (Laughter) So, you've got confidence, this is—being Friday—let's keep it there, and let's stay with the majority and get this Constitution written.

CHAIRMAN GRAYBILL: Very well. Now, the issue is on Mr. Rygg's amendment to add the words "accounting and" to the line that says that the regents are subject to the same accounting and audit provisions as are other departments of the state.

Mr. Burkhardt.

DELEGATE BURKHARDT: Because I was on my feet a moment ago, I felt I should stand and perhaps clarify where I am now in terms of a suggested way to go. I would urge the body to defeat—to defeat the amendment by Mr. Rygg. I will not be offering an amendment. I would hope that we would go, as Mr. Davis has suggested, with the original language. I hope we will defeat Mr. Rygg's amendment.

CHAIRMAN GRAYBILL: Mr. Barnard.

DELEGATE BARNARD: Mr. President, I rise, of course, again—in support again of the motion of Mr. Rygg. I'd like to point out a few things from past experience. I put in 8 years on the House Appropriations Committee, where every year I had to battle to get sufficient money for the University System to operate, and I know that the Appropriation Committee of the House or the Revenue and Finance Committee of the Senate are not going to appropriate any money unless they have a full accounting of every single item that is spent in the University System. They may not even appropriate $1. It's always a battle to get money for the University System here, and in defense of the University System themselves, I think they owe this to the people.

CHAIRMAN GRAYBILL: Mr. Heliker.

DELEGATE HELIKER: Mr. Chairman. As a rank-and-file teacher, I'm not an administrator. I told you the other day that a strong, unified management of the University would probably make me—make life a little bit more difficult for me—as a rebel, sometimes, in the position of having to fight with administrators—but I come back to my old theme that if we are to use the people's money effectively and efficiently and get the job of education done, we really need that managerial efficiency and unification. Now, speaking to this question of uniformity of accounts within the University System, the University System units are quite different. You have an engineering school down at Bozeman; we don't have an engineering school at Missoula. We have computer centers on both campuses, but the computer centers are for quite different purposes because of the differences in the two institutions. If you force on those two units identical accounting systems, you will force on them identical management systems over their computer centers. This is one example, and there are many examples like this. And this simply is tying them to a straitjacket which is not efficient and which does not allow them to use their resources to the best purpose. Now, there is absolutely no fear of audit or accountability that I have been able to detect on the part of the University administrations or the Board of Regents. The legislative audit is in there and goes over the books. Mr. Drum says if you had absolutely uniform accounts, it would make the Legislative Auditor's job a little easier. This may be true, but it will also be at the expense of flexible management of our higher education units—flexible and efficient—and this is what we want, I think, in their management.

CHAIRMAN GRAYBILL: Mr. Garlington.

DELEGATE GARLINGTON: Mr. Chairman, I am disposed to point out something that I think has not been mentioned in the discussion so far that, it seems to me, has quite a little bearing on the whole problem. In the past, we had a weak Board of Education with no leadership. We have cured that, now, by the new system that we worked out and amended and put in here; and untried, as yet, is a new Board of Regents with definite power to run the show and with definite authority to obtain an expert to help them in the process. The people who will be on the board face the fact that the Constitution now says that they shall together work out a unified budget request to go to the Legislature, and being intelligent people and this also being a new thing which has not been done before, it seems reasonable that they would realize what is required to satisfy the legislative demands and would act accordingly. And rather than impose some kind of uniform straitjacket that applies to all boards, bureaus, commissions and bureaucracies in Montana on an admittedly unique type of thing, it seems to me that we ought to feel that the handiwork of our previous days deserves a fair trial and that we should not sort of throttle it at the last minute by imposing a standardization which none of us expert accountants can really understand the full impact of. So, I feel that we did a good job. We've got good, responsible management now, and I think we ought to give it a fair chance, to see what it can do. If we hamper it before it ever starts, I'm sure we'll all feel that—afterward that we made a mistake and that our vehicle for the future of education was deprived of a wheel at the last minute and that we made a sad mistake. So I believe we should, along with Mr. Davis, leave it the way it is and trust the people whom we have now equipped with adequate authority to handle the situation to go ahead and handle it.

CHAIRMAN GRAYBILL: Mr. Driscoll.

DELEGATE DRISCOLL: Mr. Chairman, in deference to Mr. Heliker, I am a school administrator. I handle roughly $400,000 of state funds and a million two hundred thousand dollars of federal funds each year. I am perfectly willing to be accountable for those funds to the state or any other way I have to be. And in deference to the Board of Regents, and we've set up this thing that's going to work so well, perhaps we should now give them the tools to operate. The Board of Regents as it operated previously was an excellent system. I defy anybody to say they weren't. I worked with them; they were, as I stated, courageous, competent individuals. And I, for an administrator handling these state and federal funds, am perfectly willing to come under a system of state accountability.

CHAIRMAN GRAYBILL: Mr. Arness.

DELEGATE ARNESS: Mr. Chairman, fellow delegates. It seems to be two main worries expressed by the people from the University System. Number one, they're worried about how they're going to be allowed to spend their money. This is not the intent of putting this in. They can spend the money as they see fit; but we think it is important that the legislative body know how they spent it, that it be put in a form that they can understand, a form that is similar to the other reports that come in. I maintain that dollars are dollars; just because they're University dollars don't make them any different than Fish and Game dollars; they're all still tax dollars and us taxpayers are paying them. We depend upon the Legislature to see that we get full value received. I don't like to see any obstructions put in to make their job harder. Now, we've had another problem here: that the University System requires an accounting system that is completely different. I admit that there are some differences in the accounting procedures. They have admitted that the WICHE system will work, that it is working; they're satisfied with it. I checked with the Department of Administration. The WICHE system is compatible with the state accounting system. As a matter of fact, they are currently working on the program to get it implemented. They're talking about all these problems. We have the post legislative auditors; these are C.P.A.s. They aren't national C.P.A.s; they're Montana C.P.A.s; but we think Montana C.P.A.s are just as good as the national ones, maybe a little bit better. And we think that if there are any minor problems involved, the state—or the post legislative auditors will certainly be able to make the necessary recommendations to solve them. Haskins & Sells, a national firm, was quoted. I think it is only fair that Touche, Ross, Bailey and Smart, another national firm—there's only eight of them—get a few more remarks that they put in when they helped the State of Montana get some uniformity. They said, "A lack of statewide uniform accounting systems and procedures also results in considerable difficulties when attempts are made to prepare consolidated statements of financial position for financial planning and reporting purposes." At this time, they made this statement: "Finally, there is an almost complete lack, in Montana, of financial reports which of—are of any use in making decisions about resource allocation alternatives or in effectively monitoring the operations of a particular agency." The last paragraph I will quote: "A statewide uniform system of accounts and accounting coding structure should be implemented across all state agencies to insure uniformity and consistency in accounting and budgeting data. The accounting classification should be designed to satisfy all of the state's accounting, budgeting and financial reporting requirements." All we're asking is that all the wheels be the same size. We don't want some 13-inch wheels, some 14-inch wheels and some 15-inch wheels going around. You know, you have a pretty uneven vehicle then. I certainly hope that you will support Mr. Rygg's proposal. Thank you.

CHAIRMAN GRAYBILL: Mr. Rygg, you may close.

DELEGATE RYGG: I'll be very brief. I could talk about these paper clips and I could talk to Delegate Arbanas about the difference between a budget that's put into the Legislature and about the school systems, and that—but I won't. I think your minds are made up, and I close. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Very well. The issue is on Mr. Rygg's amendment.

DELEGATE RYGG: Could we have a roll call vote, please, and ask for sufficient seconds?

CHAIRMAN GRAYBILL: Yes, that's fine—Section 9-2-(d), on page 10, line 21, to add the words "accounting and", so that it reads: "(d) The funds and appropriations under the control of the Board of Regents are subject to the same accounting and audit provisions as are all other state funds." So many as shall be in favor of that amendment, vote Aye; and so many as shall be opposed, vote No. Has every delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Nay
Arbanas	Nay
Arness	Absent
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Nay
Berg	Nay
Berthelson	Aye
Blaylock	Absent
Blend	Aye
Bowman	Nay
Brazier	Aye
Brown	Nay
Bugbee	Nay
Burkhardt	Nay
Cain	Nay
Campbell	Nay
Cate	Nay
Champoux	Nay

Choate	Nay
Conover	Nay
Cross	Nay
Dahood	Nay
Davis	Nay
Delaney	Aye
Driscoll	Aye
Drum	Aye
Eck	Nay
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Absent
Foster	Nay
Furlong	Nay
Garlington	Nay
Graybill	Nay
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Nay
Harrington	Nay
Heliker	Nay
Holland	Excused
Jacobsen	Absent
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Nay
Leuthold	Aye
Loendorf	Nay
Lorello	Nay
Mahoney	Aye
Mansfield	Aye
Martin	Absent
McCarvel	Nay
McDonough	Nay
McKeon	Nay
McNeil	Nay
Melvin	Nay
Monroe	Nay
Murray	Aye
Noble	Nay
Nutting	Aye
Payne	Nay
Pemberton	Nay
Rebal	Aye
Reichert	Nay
Robinson	Nay
Roeder	Nay
Rollins	Nay
Romney	Aye
Rygg	Aye
Scanlin	Absent
Schiltz	Nay
Siderius	Nay
Simon	Nay
Skari	Nay
Sparks	Nay
Speer	Nay
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Nay
Van Buskirk	Nay
Vermillion	Nay
Wagner	Aye
Ward	Nay
Warden	Excused
Wilson	Aye
Woodmansey	Nay

CLERK SMITH: Mr. Chairman, 40 delegates have voted Aye; 52 have voted No.

CHAIRMAN GRAYBILL: 40 delegates having voted Aye and 52 having voted No, the motion is defeated. Is there anything else on 9, sub. 2, sub. (d)?

(No response)

CHAIRMAN GRAYBILL: Mr. Schiltz, will you again state your motion on 9 (d) 2—9-2, and we'll put that matter?

DELEGATE SCHILTZ: I want to check if I have any amendments on that besides that one. No. Mr. Chairman, I move when this committee does arise and report, after having had under consideration Section 9, sub. 2, Style and Drafting Report Number 10, it recommend the same be adopted, and I have explained it previously.

CHAIRMAN GRAYBILL: Is there any discussion?

(No response)

CHAIRMAN GRAYBILL: All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

CHAIRMAN GRAYBILL: It's adopted. Now, 9-3, which is back on page 9, lines 22 to the end.

Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Section 9, sub. 3, Style and Drafting Report Number 10, it recommend the same be adopted as amended. We amended the word "state", on line 30, there. Right. Mr. Chairman, as I explained before, this whole Section 9 was rearranged and extensively edited and rewritten, all with the concurrence of the committee chairman, and I presume with his committee through him. There have been no substantive changes; all style changes.

CHAIRMAN GRAYBILL: Any discussion?
Mr. Harlow.

DELEGATE HARLOW: Well, I'm wondering—I'm on page 5. You have there, in subsection (b), you go on through the Governor, Commissioner of Higher Education and the State Superintendent of Public Instruction—now, you've been cutting out "state" in most of the areas.

CHAIRMAN GRAYBILL: Mr. Harlow, we took "state" out by amendment before we started on this whole subsection—whole section. Is there any other discussion?
(No response)

CHAIRMAN GRAYBILL: Very well. All in favor of 9, sub. 3, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted. Section 10, on page 10, line 23. Mr. Clerk.

CLERK HANSON: "Section 10. State university funds." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Section 10, Style and Drafting Report Number 10, it recommend the same be adopted. Mr. Chairman, only minor style changes.

CHAIRMAN GRAYBILL: Any question about Section 10?
(No response)

CHAIRMAN GRAYBILL: All in favor of Section 10, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted. Now, if you'll turn behind the yellow manila folder—or manila sheet, to page 12, and, in fact, to page 13 if you want to follow the changes, Mr. Schiltz will take up the article on Public Lands. Will the clerk read the title of Section 1.

CLERK HANSON: "Be it proposed by the Education and Public Lands Committee that there be a new article on Public Lands, to read as follows: Article. Public Lands. Section 1. Public land trust—disposition." Mr. Chairman.

CHAIRMAN GRAYBILL: There are four subsections. Mr. Schiltz, Section—subsection 1.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Section 1, Public Lands, Style and Drafting Report Number 10, it recommend the same be adopted. Mr. Chairman, there are no changes in Section 1, but I would call attention of the committee to the fact that, on line 9, the language says "Congress"—"all lands of the state that have been or may be granted by Congress"; previously we've used "the United States", but we feel there's some reason to leave "Congress" in there. It comes from the old Constitution, Article XVII, Section 1.

CHAIRMAN GRAYBILL: Very well. Are there any questions about 1, sub. 1, Public Lands?
(No response)

CHAIRMAN GRAYBILL: All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted. Sub. 2.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Section 1, sub. 2, Public Lands, Style and Drafting Report Number 10, it recommend the same be adopted. Mr. Chairman, we've made fairly extensive style changes, but nothing that alters substance.

CHAIRMAN GRAYBILL: All those in favor of Section 1, sub. 2, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted. Sub. 3.

DELEGATE SCHILTZ: Mr. Chairman. I move when this committee does arise and report, after having had under consideration Section 1, sub. 3, Public Lands, Style and Drafting Report Number 10, it recommend the same be adopted. Mr. Chairman, again we've made some style changes, but nothing substantive.

CHAIRMAN GRAYBILL: Public Lands, 1, sub. 3; all in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?
(No response)

CHAIRMAN GRAYBILL: It's adopted. Sub. 4.

DELEGATE SCHILTZ: Mr. Chairman. I move when this committee does arise and report, after having had under consideration Section 1, sub. 4, Public Lands, Style and Drafting Report Number 10, it recommend the same be adopted. Mr. Chairman, again, style changes that do not alter any substance.

CHAIRMAN GRAYBILL: Any discussion?
(No response)

CHAIRMAN GRAYBILL: Very well. Section 1, sub. 4, Public Lands; all in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted. Now, ladies and gentlemen, you've adopted the four subsections of sub. 1 on Public Lands and the 10 sections of Education. It's the Chair's intent to set that aside until we've finished Public Health after the recess, and then we will rise and report on both of these Style and Draftings at the same time. Let me think. Mr. Murray. Very well, before we recess, the Chair would like to point out that we should do Public Health after the recess. I have a budget report. It might be possible for us to—depending on how long Public Health took, it might be possible for us to—Oh, we'll also take Mr. Johnson's resolution—is now ready, is that right, Mr. Johnson? Have you got your resolution out, or is it ready to go out?

DELEGATE JOHNSON: It's ready to go out.

CHAIRMAN GRAYBILL: All right, we'll put it out on the desk during the recess; and this afternoon, after Public Health—I think we can take it today instead of tomorrow and discuss it. Very well. And then, if we have any time, I think we will probably do Bill of Rights on Order of Business Number 5, rather than start General Government today. I don't know that we'll be able to do that, but I thought you might like to know that. We'll still try to get out of here reasonably early.

Mr. Eskildsen, can we have a motion to recess for 15 minutes?

DELEGATE ESKILDSEN: Mr. Chairman, I move we stand in recess until 3:30 this day.

CHAIRMAN GRAYBILL: Very well. The motion to recess until 3:30; all in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: So ordered.

(The Convention recessed at 3:15 p.m.—reconvened at 3:40 p.m.)

CHAIRMAN GRAYBILL: The Committee will be in order. Will the delegates in the lobby please take their seats. Members of the committee, we now are prepared to proceed with the report of the Style and Drafting Committee on Public Health, Welfare, Labor and Industry, Number 9.

Mr. Murray, this report not having lain on the desk 48 hours, I wonder if you'd make a motion to suspend Rule 23.

DELEGATE MURRAY: Mr. Chairman, I move to suspend Rule Number 23 for the purpose of considering this particular proposal at this time.

CHAIRMAN GRAYBILL: Very well. The motion is to suspend Rule 23 so that we can consider the Public Health, Industry—Public Health, Welfare, Labor and Industry proposal as it's been returned from Style and Drafting. Is there discussion?

(No response)

CHAIRMAN GRAYBILL: All in favor of the motion to suspend Rule 23, which requires 48 hours on the desk, please say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

(No response)

CHAIRMAN GRAYBILL: Very well, will the clerk please turn—if you'll all please turn to page 5—if you'd care to follow the changes, page 5. And—

Mr. Murray, I wonder if you'd take the Chair for 5 minutes?

(Delegate Murray assumes the Chair)

CHAIRMAN MURRAY: The clerk will read Section 1.

CLERK HANSON: "Montana Constitutional Convention, 1971-1972. Report of the Committee on Style, Drafting, Transition and Submission on Public Health, Welfare, Labor and Industry, Number 9. Reported March 17th, 1972; Schiltz, Chairman. Be it proposed by the Public Health, Welfare, Labor and Industry Committee that there be a new article on nonmunicipal corporations, to read as follows: Article. Nonmunicipal Corporations. Section 1. Limitation of power." Mr. Chairman.

CHAIRMAN MURRAY: Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman. I move that when this committee does arise and report, after having had under consideration Section 1, Nonmunicipal Corporations, Style and Drafting Report Number 9, it recommend the same be adopted. Mr. Chairman, because the word "only" was in there on line 9, we changed it from "grant of power" to "limitation of power", which seems appropriate; otherwise, no changes.

CHAIRMAN MURRAY: Any discussion?

(No response)

CHAIRMAN MURRAY: As many as are in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN MURRAY: Those opposed, say No.

(No response)

CHAIRMAN MURRAY: The Ayes have it, and so ordered.

CLERK HANSON: "Section 2. Protection for citizenry." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman. I move when this committee does arise and report, after having had under consideration Section 2, Nonmunicipal Corporations, Style and Drafting Report Number 9, it recommend the same be adopted. Mr. Chairman, minor style change on line 12 and striking of the word "for" on the same line.

CHAIRMAN MURRAY: Any discussion on Section 2?

(No response)

CHAIRMAN MURRAY: As many as are in favor of the motion, say Aye.

DELEGATES: Aye.

CHAIRMAN MURRAY: Those opposed, say No.

(No response)

CHAIRMAN MURRAY: The Ayes have it, and so ordered.

CLERK HANSON: "Section 3. Retrospective law prohibition." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman. I move when this committee does arise and report, after having had under consideration Section 3, Nonmunicipal Corporations, Style and Drafting Report Number 9, it recommend the same be adopted. Mr. Chairman, on behalf of the Committee, we all hope—or we're all glad this is something that's only style, because none of us really knows what it means. (Laughter)

CHAIRMAN MURRAY: Is there any discussion?

(No response)

CHAIRMAN MURRAY: As many as are in favor of the motion, say Aye.

DELEGATES: Aye.

CHAIRMAN MURRAY: Those opposed, say No.

DELEGATES: No.

CHAIRMAN MURRAY: The Ayes have it, and so ordered. Okay, page 6, Labor Article.

CLERK HANSON: "Be it proposed by the Public Health, Welfare, Labor and Industry Committee that there be a new article on labor, to read as follows: Article. Labor. Section 1. Department and commissioner." Mr. Chairman.

CHAIRMAN MURRAY: Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman. I move when this committee does arise and report, after having had under consideration Section 1, Labor, Style and Drafting Report Number 9, it recommend the same be adopted.
Mr. Chairman.

CHAIRMAN MURRAY: Mr. Schiltz.

DELEGATE SCHILTZ: You'll notice that on—wait, I've got to find this—on line 11, we've struck "under the control of" and substituted therefore "headed by a Commissioner", so that it would conform with Section 8, Article I of a totally different article, the Executive Article; and then we also thought that they didn't really want this board to be totally under the control and "headed by" sounded better. Then there's "Legislature", and "Senate" was in paren—we've struck "Legislature", and in the transition article, we will cover that transition if this should become a unicameral legislature. That's all, Mr. Chairman.

CHAIRMAN MURRAY: Any discussion on Section 1 of the Labor Article?
(No response)

CHAIRMAN MURRAY: As many as are in favor of the motion, say Aye.

DELEGATES: Aye.

CHAIRMAN MURRAY: Those opposed, say No.
(No response)

CHAIRMAN MURRAY: The Ayes have it, and so ordered.

CLERK HANSON: "Section 2. Eight-hour day." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman. I move that when this committee does arise and report, after having had under consideration Section 2, Labor, Style and Drafting Report Number 9, it recommend the same be adopted. Mr. Chairman, minor style changes.

CHAIRMAN MURRAY: Any discussion on Section 2?
Mr. Blaylock.

DELEGATE BLAYLOCK: Mr. Chairman, I'd like to ask the group's indulgence for a few minutes. Could we pass this and go on and then come back to it?

CHAIRMAN MURRAY: What's your problem?

DELEGATE BLAYLOCK: There's proposed new language that they would like to put in here, if we can—

CHAIRMAN MURRAY: If you want to pass it, you'll have to make a motion to that effect.

DELEGATE BLAYLOCK: All right. I move that we pass this.

CHAIRMAN MURRAY: Until when?

DELEGATE BLAYLOCK: For about 5 minutes.

CHAIRMAN MURRAY: Well, let's put it ahead or behind something else, so we've got a place to take it up; 5 minutes doesn't really mean anything.

DELEGATE BLAYLOCK: Fine. I move that we take this up after we have finished with Section 6.

CHAIRMAN MURRAY: Any discussion on that motion? Mr. Blaylock has moved that we take this up after we discuss Section 6.
(No response)

CHAIRMAN MURRAY: As many as are in favor of his motion to pass consideration of Section 2 of the Labor Article until we have considered Section 6, which is Regulation of Public Utilities, say Aye.

DELEGATES: Aye.

CHAIRMAN MURRAY: Those opposed, say No.

DELEGATES: No.

CHAIRMAN MURRAY: Well, the Chair is in doubt on that one. We'll have to use the board. The Chair is no longer in doubt. The Ayes have it, and we will pass consideration of Section 2 under the Labor Article until after we have considered Section 6, Regulation of Public Utilities. We will go now to the Article on Institutions and Assistance.

CLERK HANSON: "Be it proposed by the Public Health, Welfare, Labor and Industry Committee that there be a new article on institutions and assistance, to read as follows: Article. Institutions and Assistance. Section 1. Institutions." Mr. Chairman.

CHAIRMAN MURRAY: Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman. I move when this committee does arise and report, after having had under consideration Section 1, Institutions and Assistance, Style and Drafting Report Number 9, it recommend the same be adopted. Mr. Chairman, rearranged the wording a little bit, but it didn't affect the substance in any way.

CHAIRMAN MURRAY: Is there any discussion on Section 1, Institutions?

(No response)

CHAIRMAN MURRAY: As many as are in favor of the motion, say Aye.

DELEGATES: Aye.

CHAIRMAN MURRAY: Those opposed, say No.

DELEGATES: No.

CHAIRMAN MURRAY: The Ayes have it, and so ordered.

CLERK HANSON: "Section 2. Restoration of rights." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman. I move when this committee does arise and report, after having had under consideration Section 2, Institutions and Assistance, Style and Drafting Report Number 9, it recommend the same be adopted. Mr. Chairman, a few minor style changes. We exchanged Section 2 for Section 3 and Section 3 for Section 2, as we got it from the floor. I will call that to your attention; otherwise, no substantive changes.

CHAIRMAN MURRAY: Mr. Dahood.

DELEGATE DAHOOD: Mr. Chairman, I would like to suggest to Style and Drafting that, in line 17, after "suspended rights", that the words "shall be" be stricken and the word "are" substituted therefor, so it will read: "Suspended rights are restored upon termination of the state's responsibility." Because I think that was the sense of the Committee of the Whole at the time that this particular section was added; and I would like to inquire, Mr. Schiltz, if that would not be a change that would more fully carry out the sense of this Committee at the time that this section was adopted.

CHAIRMAN MURRAY: Mr. Schiltz.

DELEGATE SCHILTZ: Well, it would be my observation—we—I'm not clear what the sense of the Committee was, but if it was that they shall be restored when that happens—when that contingency happens, why, then, I think "shall be" is correct, but if they're somehow automatically restored, as you and I talked of yesterday in a different section and a different article, why, then it should be "are".

CHAIRMAN MURRAY: Mr. Dahood.

DELEGATE DAHOOD: Mr. Chairman, it was the sense of this Committee they should be automatically restored, and the language "shall be" would still lead to the interpretation that perhaps somebody has to petition a court to have that restoration made official. And I think if we substitute for that language the word "are", that will indicate they are automatically restored, and then some system could be set up whereby a certification of restoration could be given administratively and court action would not be necessary. I so move, Mr. Chairman.

CHAIRMAN MURRAY: Your motion, then, would be to substitute the word "are" for the two words "shall be" in line 17?

DELEGATE DAHOOD: That is correct, Mr. Chairman.

CHAIRMAN MURRAY: And that's page 7.

DELEGATE DAHOOD: I so move.

CHAIRMAN MURRAY: And Mr. Schiltz does not resist that, I presume, on the basis that it is substantive rather than stylistic? Do you agree that it is style change?

DELEGATE SCHILTZ: Well, for the purposes of the record, I will; yes.

CHAIRMAN MURRAY: All right. (Laughter) Is there any discussion on Mr. Dahood's motion?

Mr. Choate.

DELEGATE CHOATE: Yesterday, we did have a vote on this very change. Wade—Mr. Dahood proposed that this word be changed from "shall be" to "are", and we took a vote on it and it was passed.

CHAIRMAN MURRAY: I didn't hear the end of that, did you say it did pass or did not pass?

DELEGATE CHOATE: Did pass.

CHAIRMAN MURRAY: It did pass? Well, I'm sorry that the Chair doesn't recall that, but I will put the question to you at this time. Any further discussion?

Mr. Kelleher.

DELEGATE KELLEHER: Mr. Chairman, I don't like to disagree with my Chairman, Chairman Schiltz, but I think Wade is right and that's—was our intent, anyway, that they be automatically—rather than go to the Governor, as now, to get a pardon.

CHAIRMAN MURRAY: Okay, the question now arises on Mr. Dahood's motion to amend line 17 by deleting the words "shall be" and substituting the word "are". As many as are in favor of his amendment, say Aye.

DELEGATES: Aye.

CHAIRMAN MURRAY: Those opposed, say No.

(No response)

CHAIRMAN MURRAY: The Ayes have it, and so ordered.

DELEGATE SCHILTZ: Mr. Chairman.

CHAIRMAN MURRAY: Mr. Schiltz.

DELEGATE SCHILTZ: I move that when this committee does arise and report, after having had under consideration Section 2, Institutions and Assistance, Style and Drafting Report Number 9, it recommend the same be adopted as amended.

CHAIRMAN MURRAY: Any discussion?

(No response)

CHAIRMAN MURRAY: As many as are in favor of the motion, say Aye.

DELEGATES: Aye.

CHAIRMAN MURRAY: Those opposed, say No.

(No response)

CHAIRMAN MURRAY: The Ayes have it. So ordered.

CLERK HANSON: "Section 3. Assistance." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman. I move when this committee does arise and report, after having had under consideration Assistance —Institutions and Assistance, Style and Drafting Report Number 9, it recommend the same be adopted. Mr. Chairman, only style changes—"Legislative Assembly", and we had to put a "such" in there. I apologize for it, but we had to.

CHAIRMAN MURRAY: Any discussion on Section 3?

(No response)

CHAIRMAN MURRAY: As many as are in favor of the motion, say Aye.

DELEGATES: Aye.

CHAIRMAN MURRAY: Those opposed, say No.

(No response)

CHAIRMAN MURRAY: The Ayes have it, and so ordered. Okay, we'll take up Section 6, Regulation of Public Utilities—Consumer Council.

CLERK HANSON: "Be it proposed by the Public Health, Welfare, Labor and Industry Committee that there be a new article on regulation of public utilities, to read as follows: Article. Regulation of Public Utilities. Section 6. Consumer counsel." Mr. Chairman.

CHAIRMAN MURRAY: Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman. I move when this committee does arise and report, after having had under consideration Section 6, Regulation of Public Utilities, Style and Drafting Report Number 9, it recommend the same be adopted. Mr. Chairman, we only deleted the words "by law", under Section 9, because that's about the only way the Legislature can provide.

CHAIRMAN MURRAY: Mr. McNeil.

DELEGATE McNEIL: Mr. Chairman, this is a technical thing that I mentioned to Mr. Burkhardt yesterday in Mr. Schiltz' absence, but I think the caption should be changed. The article reads, now, "Regulation of Public Utilities", and the only section contained underneath it is "Consumer counsel", which does not relate to regulation, so I believe the heading should be just "Public Utilities" or something other than "Regulation", because the section doesn't speak to it. I move to delete the words "Regulation of" from the caption to the article.

CHAIRMAN MURRAY: Mr. Schiltz.

DELEGATE SCHILTZ: No objection.

CHAIRMAN MURRAY: All right, the question now arises on the motion of—

Excuse me, Mr. Loendorf, did you—

DELEGATE LOENDORF: Am I correct in assuming it's proper to wait until the section is adopted before making it?

CHAIRMAN MURRAY: I think so. I'm going to call on you; I realize that you have an amendment to it or a motion to make. The question now arises on Mr. McNeil's amendment to delete the words "Regulation of" in the title, so that the title of the article then reads "Public Utilities". As many as are in favor of the amendment, say Aye.

DELEGATES: Aye.

CHAIRMAN MURRAY: Those opposed, say No.

(No response)

CHAIRMAN MURRAY: The Ayes have it, and so ordered.

DELEGATE SCHILTZ: Mr. Chairman, I would like to make another amendment. I would call on some of my committee to correct me if I'm wrong, but I don't think we need a Section 6 or a Section 1, either one, under—this is—there are no other sections, and this would be a lone provision under this article, so unless I hear objection from my committee members, I will move to delete the words "Section 6" on line 8.

CHAIRMAN MURRAY: Is there any discussion?

Do you agree, Mr. Garlington?

DELEGATE GARLINGTON: Yes.

CHAIRMAN MURRAY: Okay, the question now arises on the motion of Mr. Schiltz to delete the language "Section 6", as it appears before the words "Consumer counsel" on line 8 of page 8. As many as are in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN MURRAY: Those opposed, say No.

(No response)

CHAIRMAN MURRAY: The Ayes have it, and so ordered.

DELEGATE SCHILTZ: Mr. Chairman. I move that when this committee does arise and report, after having had under consideration Public Utilities, Style and Drafting Report Number 9, that it recommend the same be adopted as amended.

CHAIRMAN MURRAY: Mr. Loendorf, I presume that you wish to make a motion which would be to suspend the rules, and then offer some language instead of this one; is this right?

DELEGATE LOENDORF: That's correct, Mr. Chairman. At this time, I would move to suspend the rules for the purpose of reconsidering the former Section 6—now, I presume, just the section on Public Utilities—or the article on Public Utilities. Mr. Chairman, may I speak to the motion?

CHAIRMAN MURRAY: Yes, Mr. Loendorf.

DELEGATE LOENDORF: Fellow delegates, I apologize for making this motion at this late date. However, as you know, Section 6 was not part of the original article; it was an amendment that came in quickly, and we didn't have a lot of time to review it before voting on it. Secondly, I would like to say that some of you have expressed the fear to me that suspending the rules now and reconsidering this matter would result in its deletion. That is certainly not my purpose in making the motion, and if my amendment does fail, I guarantee you I will support the present article. Now, what I have proposed—I've had an amendment placed on your desks that if the rules are suspended, I would make a motion to reconsider this section and have that language substituted therefor. And, as you note, it amends the present section in two respects; one, it broadens the scopes of the duties of the office of Consumer Counsel. He would represent consumers before all public agencies, rather than just the Public Service Commission or its successor, the one agency. Secondly, it would leave to the Legislature complete discretion in providing for the funding. The reason for the first amendment was this: I'm not completely aware of how often rate hearings occur before the Public Service Commission, but I'm wondering if they do not come up more frequently than once or twice every year or two. And I'm wondering: if we're creating a new office in the Constitution, if we should not give this person something to do. I certainly don't want to pay somebody to sit around waiting for another rate hearing to come up, and he may be waiting 6 months to a year. Therefore, I propose that we let him represent consumers before all agencies of the state. Secondly, I've deleted the words—or the provision providing for the special tax. Initially, I thought possibly there was a constitutional question here. However, after talking it over with other lawyers, I'm probably incorrect on that, but since I've now broadened the office to deal with all state agencies, I assume the Legislature can find a tax from an appropriate source or even the one we have proposed here. Thank you, Mr. Chairman.

(Chairman Graybill assumes the Chair)

CHAIRMAN GRAYBILL: Very well. Is there other discussion on the motion to suspend the rules?

Mr. Murray.

DELEGATE MURRAY: I—thank you, Mr. Chairman. I resist the motion to suspend the rules for this particular purpose. I point out that the amendment to be proposed is different in scope entirely. I do not think, on review of it and discussion of it with Mr. Loendorf, that it would accomplish the purpose for which it is designed. I think that it is introducing again to this assembly a people's advocate, or ombudsman, and this is not the purpose of the original section. I might point out to you that I think the language would delete any rate regulation possibility before the Public Service Commission, and as such I resist his motion to suspend the rules.

CHAIRMAN GRAYBILL: Mrs. Eck.

DELEGATE ECK: Mr. Chairman. I, too, resist the motion to suspend the rules, but—and looking at this, I don't think it looks like an ombudsman to me. You know, if I thought it was really going to be one, I would support it. (Laughter) But it looks to me more like a way of getting around what proves to be kind of an objectionable way of funding to some groups, and I resist it. I think that the article—the section as stated—I guess it's an article right now— is very adequate to do what we intended it to do. Thank you.

CHAIRMAN GRAYBILL: Very well. The issue is on Mr. Loendorf's motion to suspend the rules so that we can consider the public utilities article. We'll take a non-roll call vote. All in favor of suspending the rules, vote Aye; all against, vote No. Have all the delegates voted?

(No response)

CHAIRMAN GRAYBILL: Any delegate want to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well; 66 having voted against it and 27 for it, the motion is defeated—66 to 27—and so we won't suspend the rules.

Mr. Schiltz, have we adopted the article yet?

DELEGATE SCHILTZ: No, sir, we have made the motion and—that it be adopted as amended, but no vote has been taken.

CHAIRMAN GRAYBILL: Very well. And we have amended the title and the style under there.

DELEGATE SCHILTZ: We took out Section 6—the words "Section 6" and the word "regulation of".

CHAIRMAN GRAYBILL: Is there other discussion of Section—of the article on Public Utilities? Mr. Wilson, on Style and Drafting?

DELEGATE WILSON: Will Mr. Schiltz yield to a question?

CHAIRMAN GRAYBILL: Mr. Schiltz?

DELEGATE SCHILTZ: I yield.

DELEGATE WILSON: Would it be your interpretation of this suggestion that it would require this person to regulate all utilities, such as water systems, public municipalities, and so forth?

DELEGATE SCHILTZ: Mr. Wilson, it would be my interpretation of this that there are two sentences there, and under Style and Drafting, that's as far as I'm authorized to go.

CHAIRMAN GRAYBILL: Mr. Wilson.

DELEGATE WILSON: Mr. President, would you yield to the question of whether this would cover all municipalities, water systems and so forth, as well as public utilities?

CHAIRMAN GRAYBILL: I think, Mr. Wilson, the point is that—Mr. Schiltz is making the point that we're on Style and Drafting and not on substance. Now, I haven't read it carefully, as a lawyer, and I don't want to make a comment on it from the Chair if I had, and I really haven't. I really don't know. Are there other comments on it?

(No response)

CHAIRMAN GRAYBILL: All in favor of adopting the article on public utilities, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

(No response)

CHAIRMAN GRAYBILL: The Ayes have

it, and it's adopted. Very well, I understand we passed Labor, Section 2.
Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, there was one article that we—or one section or article that we passed.

CHAIRMAN GRAYBILL: Yes, Section 2 of the Labor Article. Do you want to move it again, Mr. Schiltz? And I have someone else who wants to speak on it.

DELEGATE SCHILTZ: All right. Mr. Chairman, I move—let me see if we had any amendments—Mr. Chairman, I move that when this committee does arise and report, having had under consideration Section 2, Labor, Style and Drafting Report Number 9, it recommend the same be adopted.

CHAIRMAN GRAYBILL: Mr. Cate—or Mr. Blaylock, did you want the floor?
Mr. Blaylock.

DELEGATE BLAYLOCK: Mr. President, it was at my request that we pass this, because I had understood that some of the laboring people were very concerned about some of the language in this, but it has been conferred and they have decided to leave the language as is, so I thank the assembly very much for their indulgence.

CHAIRMAN GRAYBILL: Very well; Mr. Schiltz.

DELEGATE SCHILTZ: Mr.—I guess I made the motion, Mr. Chairman.

CHAIRMAN GRAYBILL: You made the motion; are there any explanations you want to make?

DELEGATE SCHILTZ: No, we only had style changes of no—nothing that changed any substance.

CHAIRMAN GRAYBILL: Mr. Drum.

DELEGATE DRUM: Mr. Chairman, would it be in order for me to suggest that we amend out "and stockraising"? It would seem to me that "agriculture" in general would cover this area, and who was—ranchers are all stockraisers, and probably people who feed cattle are stockraisers—they're raising the weight of the cattle—one thing or another. But it would seem to me that "agriculture" would be better wording to use in this section. And I would like to propose that we just say "employment except agriculture" on line 14, period.

CHAIRMAN GRAYBILL: You're suggesting that the words "and stockraising" are included in the concept of agriculture?

DELEGATE DRUM: Stockraising—they seem to be—they are in the—certainly in the concept of agriculture, yes.

CHAIRMAN GRAYBILL: Mr. Schiltz, do you care to speak to that?

DELEGATE SCHILTZ: I don't—I think the point is reasonably well taken, but I don't know what the authors—whether agriculture includes stockraising, or whether there's a definition somewhere in the world that says that stockraising might include feeding, such as you do, and is not agriculture; I have no idea. I'd think safety would indicate leaving it in.

CHAIRMAN GRAYBILL: Mr. Wilson.

DELEGATE WILSON: I think they're two separate functions, and I would resist the motion to delete it.

CHAIRMAN GRAYBILL: We don't have a motion. Now, Mr. Drum, one of the stockraisers doesn't want to.
Mr. Etchart.

DELEGATE ETCHART: That language is in the present Constitution, and I agree with Mr. Wilson that we should leave it in.

CHAIRMAN GRAYBILL: Mr. Drum, are you going to acquiesce?

DELEGATE DRUM: No, Mr. Chairman, I'm not going to acquiesce, because stockraising is in agriculture; and when you use the word "stockraising", you are restricting the word "agriculture" considerably, because there are a lot of other activities that—it seems to me that "and stockraising" restricts the application of the word "agriculture" here. I move that we amend it by deleting "and stockraising". Stock is certainly in agriculture.

CHAIRMAN GRAYBILL: Very well. The Chair is going to rule that, with the explanations made here on the floor that agriculture is intended to cover stockraising, that this then becomes a matter of style and not a matter of substance, and we can decide whether or not to do it—which way to do it. Therefore, I'll allow Mr. Drum's amendment—motion that we delete the words "and stockraising", and it's open for debate on the style issue of whether or not you want to use "agriculture" or "agriculture and stockraising". Is there any further discussion?

Mr. Nutting.

DELEGATE NUTTING: Mr. Chairman, I'd just like to comment: in our state government we separate them, so it would assume—the assumption would be, on a state level, that they are separate departments, so therefore I would resist the movement.

CHAIRMAN GRAYBILL: Mr. Harbaugh.

DELEGATE HARBAUGH: Mr. Chairman, having been raised down in that Jordan country as a cowpuncher, I would resist being called a farmer. (Laughter)

CHAIRMAN GRAYBILL: Where does it say "farmer", Mr. Harbaugh? (Laughter)

Mr. Johnson.

DELEGATE JOHNSON: Mr. Chairman, just to add to what Harbaugh was saying, in agriculture you could conceivably hold to an 8-hour day without hurting anybody, particularly. I think, if you drew the line around them so that you'd be driving a tractor and cultivating wheat, et cetera, whereas if you're out punching cows and you leave a bunch eight-nine miles from home just because it's time to quit and you haven't got them where you're going yet, that wouldn't be so very good, you know. I think you have—No, seriously, now, you've got problems living with a cow that —you can turn a tractor off, you know, but you can't turn a cow off. That's all there is to it. (Laughter)

CHAIRMAN GRAYBILL: Mr. Foster.

DELEGATE FOSTER: Mr. Chairman and fellow delegates. I think that this is purely a matter of what the words mean, and I certainly interpret agriculture to include stockraising, beekeeping, and a lot of other terminologies. And I think that stockraising is a narrower form of agriculture, and when you put it in the Constitution, by rights you should then list all of the other similar categories of agriculture in the Powder River rule. And so I think that Mr. Drum's motion is very well put, and I think that agriculture certainly includes stockraising, as well as many other different practices.

CHAIRMAN GRAYBILL: Mr. Aronow.

DELEGATE ARONOW: Mr. Chairman, I have a dictionary here, and the definition of the word "agriculture" in Webster's Dictionary is: "the art or science of cultivating the ground; the production of crops and livestock on a farm; farming." Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Davis.

DELEGATE DAVIS: Mr. President. I—the only authority I have is from the play *Oklahoma!* where they sing, "Oh, the farmer and the cowboy should be friends." (Laughter)

CHAIRMAN GRAYBILL: The Chair is going to observe that we have a pretty good one going here. (Laughter)

Mr. Choate.

DELEGATE CHOATE: Mr. Chairman.

CHAIRMAN GRAYBILL: How does it look from up above?

DELEGATE CHOATE: They probably agree. I think that probably if we could consider Mr. Foster's bees—or herd of bees, it probably ought to come under ranching; and I'd suggest that we change these words, both of them, to "farming and ranching".

CHAIRMAN GRAYBILL: Mrs. Pemberton.

DELEGATE PEMBERTON: I was waiting to hear from Mr. Burkhardt, Mr. President. (Laughter)

CHAIRMAN GRAYBILL: Mr. Burkhardt, do you yield.

DELEGATE BURKHARDT: I simply can't resist. If we ever—if we do get beyond this—I've talked to four people here; none of us were here when this was debated. Why is it in the Constitution? I realize that isn't the discussion of the amendment, but if we get past this amendment, I'm going to ask to suspend the rules and ask why it's in the Constitution.

CHAIRMAN GRAYBILL: Mrs. Sullivan.

DELEGATE SULLIVAN: Mr. President, may I say to the assembly that you meant that Mr. Choate is a pilot, and you weren't referring to the gallery?

CHAIRMAN GRAYBILL: That's right. (Laughter)

Mr. Champoux.

DELEGATE CHAMPOUX: In Choate's —it doesn't make any difference with Choate, he's always flying anyway.

CHAIRMAN GRAYBILL: All right, now, the issue is on whether to take the word "and stockraising" out of line 15 and 16. So many as shall be in favor of taking those words out, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No. (Laughter)

UNIDENTIFIED DELEGATE: —the cowboys are winning!

CHAIRMAN GRAYBILL: The Noes have it. All right, so many as are in favor, vote Aye on the voting machines; and so many as are opposed, vote No—for a nonrecorded vote. Has every delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: The Noes have it, 57 to 33; 57 voting No, 33 voting Aye, so we leave the words in the Constitution.

Mr. Burkhardt.

DELEGATE BURKHARDT: Mr. Chairman, at the risk of our being here more than an 8-hour day, I just would—I ask whether this body might move to suspend the rules and reconsider this issue, and I would so move.

CHAIRMAN GRAYBILL: Mr. Burkhardt moves that we suspend the rules on Section 2 of the Labor Article. Is that correct?

DELEGATE BURKHARDT: Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Burkhardt.

DELEGATE BURKHARDT: If I ask to reconsider this, I'd like to explain what I have in mind. This is one of those things that, in a very few years, is going—we're going to be asking ourselves, "Why did we put that in there?"—and I'd like to hear someone say why it's there originally. I was off the floor when this was debated, and no one to my left or right within reach here, remembers talking about it. I serve on a board of a hospital where the employees have voted and are working 10-hour days 4 days a week and enjoying a three-day weekend, and they're happy with it; and am I now going to tell them that that's unconstitutional? I think it may be something we want to look at in some depth.

CHAIRMAN GRAYBILL: Is there other discussion of the motion to suspend the rules?

Mrs. Babcock.

DELEGATE BABCOCK: Well, I'm probably talking on the wrong subject. Mr. Chairman, I'd like to point out to Mr. Burkhardt that agriculture and stockraising and labor are the three most important industries in Montana, and they should certainly be in the Constitution.

CHAIRMAN GRAYBILL: All right. Now, we're on the issue of suspending the rules.

The next one up, I think, was Mr. Brown.

DELEGATE BROWN: Mr. Chairman, I believe this is very restrictive and we should reconsider it, so I would back Mr. Burkhardt.

CHAIRMAN GRAYBILL: The next one up was Mr. Woodmansey.

DELEGATE WOODMANSEY: Those of you who were here yesterday would have found, in the debate, that we put in the word "maximum" here, and I would resist deleting this. I think it's important. Things may change; if you want to work a 10-hour day and still get in the workweek somehow, this will allow it. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Heliker.

DELEGATE HELIKER: Mr. Chairman, I resist the motion to suspend the rules. For Mr. Burkhardt's benefit, we debated this quite extensively; and just because he wasn't here is no reason to go all over it again.

CHAIRMAN GRAYBILL: Mr. Cate.

DELEGATE CATE: For Mr. Burkhardt's benefit, in answer to his question of why it's in there, I once heard a story of why it's there. I don't know whether this is true or not. It's my understanding that, in the days of mining, that the miners would come to the shaft and they would have to sit around there for half an hour or so before they'd take them down into the bottom to work in the shafts. And then, after 8 hours was completed down there, they would have to lay down there in the mining shafts underground a half hour or so waiting for the cable car to come down to pick them up. And so, in effect, they were putting in not 8-hour days, but 9- or 10-hour days, because they had to sit around and wait for the mining car to come up and down. And it's my understanding that that was the original purpose for having this put into our Constitution, and I think it still serves a purpose in that it prevents that type of thing from happening in the mining industry and elsewhere.

CHAIRMAN GRAYBILL: Mr. Drum.

DELEGATE DRUM: Mr. Chairman. I, too, feel that it would be wise for us to perhaps reconsider this thing. I had a communication that I'd like to pass on—and I don't have any connection in any way with this group, but it apparently has become a point of concern to the Contractor's Council. They feel that the limitation of an 8-hour day may make it difficult for them to know—if the people don't care to work over 8 hours—in their bidding of jobs and that type of thing, there may be some restrictions that will raise some havoc with the construction industry in general, and I think they would like to pass that on to this body. Thank you.

CHAIRMAN GRAYBILL: Mr. McCarvel.

DELEGATE McCARVEL: Mr. Chairman, I rise to resist the opening of this section. I think it was clearly debated yesterday on how much restriction this would be, and there is absolutely none, and it leaves it open on the end for the Legislature to draw up any other restrictions that may—and conditions that may affect labor.

CHAIRMAN GRAYBILL: Mr. Studer.

DELEGATE STUDER: Mr. President. We discussed this a lot yesterday, all right; but as far as reconsidering it, I've had a lot of people concerned about this, and I would like to see it reconsidered.

CHAIRMAN GRAYBILL: Mr. Mahoney.

DELEGATE MAHONEY: Mr. Chairman, I—in the motion to reconsider, I just wonder how far we can discuss it, but we did discuss this at great length yesterday, and the old Constitution let you—couldn't work over 8 hours. If you ever worked over 8 hours and are not paid overtime, you're in violation. Now, the worst trouble has been, the person working, as well as the other, were both in violation. This is a liberalized thing; this lets us do it in the—later; and I'd resist the motion to reconsider at this time.

CHAIRMAN GRAYBILL: Mr. McNeil.

DELEGATE McNEIL: Mr. Chairman, for Mr. Burkhardt's information, the roll call vote on this was 74 to 13, so unless an awful lot of people have changed their mind, I think we ought to oppose the reconsideration.

CHAIRMAN GRAYBILL: Mr. Burkhardt.

DELEGATE BURKHARDT: Mr. Chairman, I—

CHAIRMAN GRAYBILL: Mr. Burkhardt, I—All right, go ahead.

DELEGATE BURKHARDT: Yeah. Just that if someone else wants to make this motion, they may. I will withdraw my move to reconsider. I think, as I've heard it explained, it has some possibility for flexibility, and it does seem statutory to me, but I withdraw my move to delete. Someone else may want to make it.

CHAIRMAN GRAYBILL: Mr. Burkhardt has withdrawn his motion to reconsider.
Mr. Harper.

DELEGATE HARPER: I'm not going to renew it. I'm just going to point out to Bill how short our article on labor will be if we take this out. (Laughter)

CHAIRMAN GRAYBILL: Very well. Members of the body, you have before you for your consideration, on the recommendation of Mr. Schiltz that when this body has finished considering sub—Section 2 of the Labor Article, as Style and Drafting has sent it to us, that we adopt it. All in favor of adopting Section 2, Style and Drafting's Labor Article, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted. Very well, members of the body, you have adopted both the Public Health, Welfare and Labor and Industry Style and Drafting proposal, plus the Education and Public Lands—Oh, wait a minute. Mr. Harper, I guess I almost went by you. Go ahead. Mr. Harper wants to add a new section to Public Health, Welfare, Labor and Industry.
Mr. Harper.

DELEGATE HARPER: Yes. Mr. Chairman, I'd like to, I presume, move to suspend the rules in order to add a new section. I'm not sure what you'd call it; you might call it subsection 2 under the article of regulation of public utilities on—I'm looking at page 8 of Style and Drafting report—assuming that the first one, entitled "Consumer counsel", would become subsection 1.

CHAIRMAN GRAYBILL: That's right, Mr. Harper.

DELEGATE HARPER: This new section, to be presented to the voters in the June 6th election as a separate issue on the ballot, and it would read, as the clerk has it—or I can read it—

CHAIRMAN GRAYBILL: Will the clerk please read Mr. Harper's proposal.

CLERK HANSON: "Section 2. Any county or—"

CHAIRMAN GRAYBILL: Wait a minute—wait a minute. Read his proposal: I move to amend—

CLERK HANSON: "Mr. Chairman. I move to add a section to the Public Health, Welfare, Labor and Industry report, to be presented to the voters in June 6th election as a separate issue on the ballot: Section 2. Any county or municipal subdivision of the state has the power and authority to establish public cooperatives for the maintenance and operation of facilities, subject to regulations provided by law. Signed: Harper."

DELEGATE HARPER: Thank you. I'll just speak to the motion to suspend. Sixteen of you who didn't get a chance to express yourselves on this issue—and I know you feel badly about that—in a vote that turned out 43 to 41, will find this—these exact words—in so-called "Section 7" on page 29 of the Committee Report, the original Public Health, Welfare—et cetera—Committee report. I think its intent is obvious, except for the 16 people who didn't hear it. The debate was long and arduous, and I simply offer it again as a possible way of getting something that a good many people are interested in onto the ballot as—to give the people a chance to express themselves on it. It doesn't make any real difference to the utility companies, and there probably will be no contest on it. If it does, they can make—take a good deal of interest in explaining both sides of this to the people. I understand that this is not now allowable unless the Legislature actually passes a law making it allowable, and it does seem to me to be consistent with our basic approach toward freeing people and communities for action.

CHAIRMAN GRAYBILL: Very well. Mr. Harper has made a motion to suspend the rules to consider adding a Section 2 to the public utilities article, the substance of which would be to place on the ballot this subsection—subdivision as an alternative for the people to vote on—whether or not county and municipal subdivisions can establish public cooperatives for the maintenance and operation of utilities. Is there discussion of the motion to suspend the rules?

Mr. Hanson.

DELEGATE HANSON: Mr. President, is the word "public cooperatives" or "public corporations"? I checked mine, and I thought I heard it different.

CHAIRMAN GRAYBILL: It says "public cooperatives" on the motion that Mr. Harper makes. I don't know if that's exactly what it was in the previous—

DELEGATE HARPER: My writing is hard to read, and I can—I apologize to the secretary as well as to you. That should be "corporations".

CHAIRMAN GRAYBILL: All right, it's "public corporations for the maintenance and operation of public utilities, subject to regulations provided by law." Mr. Harper says that it's Section 7 that we considered the other day, of Public Health's article, and the purpose of it would be to place this matter as an alternative on the ballot.

Mr. Habedank.

DELEGATE HABEDANK: Mr. President. I resist the motion to place this on the ballot. I voted in favor of this the other day—

CHAIRMAN GRAYBILL: All right, now, Mr.—

DELEGATE HABEDANK: —just let me finish.

CHAIRMAN GRAYBILL: All right, but that's not the motion that is before you.

DELEGATE HABEDANK: The motion to reconsider.

CHAIRMAN GRAYBILL: You may resist the motion to reconsider, but not the motion to place it on the ballot, because we don't have such a motion. Okay.

DELEGATE HABEDANK: Mr. President, I resist the motion to reconsider.

CHAIRMAN GRAYBILL: Very well.

DELEGATE HABEDANK: I feel that the motion that will be made to reconsider is to place it on the ballot; and I feel that we discussed this thing, we voted on it, it was lost. And there are other—there is another motion—there is another proposal coming up for being placed on the ballot, and I think we will have too many matters on the ballot; and for this reason, I oppose its reconsideration for that purpose.

CHAIRMAN GRAYBILL: Mr. McKeon.

DELEGATE McKEON: Mr. Chairman, I support the motion to suspend the rules. I think that it's important, with a greater number of people here today, that we again air this argument with more people in the house. As Mr. Harper noted, it was a 41 to 43 vote, and I have noticed many people have decided—or are considering changing their minds on this issue, so I think that it would be important that we would give the committee the opportunity to discuss it again.

CHAIRMAN GRAYBILL: On the issue of suspending the rules, Mrs. Van Buskirk.

DELEGATE VAN BUSKIRK: I am also in favor of suspending the rules that we may vote on this again.

CHAIRMAN GRAYBILL: Mr. Swanberg.

DELEGATE SWANBERG: Mr. President. Frankly, I'm somewhat surprised at this attempt here, because we've already allowed cities and towns to establish their municipal electric systems when we considered Local Government yesterday, and I see no point in having it in here twice.

CHAIRMAN GRAYBILL: Mr. Arness.

DELEGATE ARNESS: Mr. Chairman, I don't think that's entirely accurate. There's really nothing in the Local Government proposal that this body adopted that changes the present situation in any way. I support the motion to suspend the rules.

CHAIRMAN GRAYBILL: All right, now, the Chair is going to rule that that issue has been spoken on on both sides, and there seems to be a disagreement, and we can certainly go into that if we open the rules, so I'm not interested in hearing any more about whether it's in or out of Local Government. Is there any more discussion about suspending the rules?

(No response)

CHAIRMAN GRAYBILL: Very well, the motion is to suspend the rules in order to authorize the addition of a section concerning—to the public health article on public utilities to allow county and municipal subdivisions to establish public corporations to maintain and operate utilities. So many as shall be in favor of suspending the rules, vote Aye; and so many as shall be opposed, vote No.

Mr. Toole, for what purpose do you rise?

DELEGATE TOOLE: Mr. Chairman, to explain my vote. I decline to vote under Rule 20.

CHAIRMAN GRAYBILL: Mr. Rebal, for what purpose do you rise?

DELEGATE REBAL: Mr. Chairman. I paired with Mr. Holland, he being for; me being against—so I'm not voting.

CHAIRMAN GRAYBILL: Just a minute. We're in Committee of the Whole; you're explaining your nonvote.

DELEGATE REBAL: I'm explaining my nonvote, sir.

CHAIRMAN GRAYBILL: A pair is not allowed in the Committee of the Whole. It's allowed in the body as a whole. Has every delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, the Chair will close the ballot; 50 have voted Aye, 42 have voted No. It takes a majority of 51 or a two-thirds majority to carry a motion to suspend the rules; therefore, the motion fails.

Mr. Eskildsen.

DELEGATE ESKILDSEN: You must count the two votes that was paired, then. Oh, yes.

CHAIRMAN GRAYBILL: I'm sorry, the rule is that you must have an absolute majority of the body, which is 51, or two-thirds, whichever is less; so we have to have 51 votes.

DELEGATE ESKILDSEN: (Inaudible)

CHAIRMAN GRAYBILL: The other rule is, Mr. Eskildsen, there are no pairs in the Committee of the Whole. I don't care what he says, there aren't any.

DELEGATE ESKILDSEN: I understand that, very well; you can still vote, then, Mr.—

CHAIRMAN GRAYBILL: No, he can't vote now.

Mr. Cate, for what purpose do you rise?

DELEGATE CATE: Mr. Chairman, we have a delegate that did not vote that I believe wished to vote, Mrs. Speer.

CHAIRMAN GRAYBILL: Well, I'm sorry; it's too late now. Now, if somebody wants to remake the motion, I'll put the vote again, but when I close the ballot—and this one was open a long time—I can't help it. The motion has failed. Does somebody want to remake the motion?

DELEGATE McKEON: Mr. Chairman, I so move.

CHAIRMAN GRAYBILL: Mr. McKeon will remake the motion. The motion is to suspend the rules for the purpose of considering a new Section 2. I see no reason for further debate. The Chair will open the ballot. All those in favor of suspending the rules, vote Aye; those opposed, vote No. All right, now, has every delegate voted that wants to?

(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, it's 51 to 43; therefore the motion prevails.

Very well, Mr. Harper—Mr. Harper, the Chair is somewhat concerned. We voted on this issue. Are you prepared to make a motion to reconsider the section that we voted on? And voted down?

DELEGATE HARPER: Does that need to be done?

CHAIRMAN GRAYBILL: I would think it does, because otherwise I'd be adding an identical section to one that was already added, so—

DELEGATE HARPER: Mr. Chairman, I am prepared to move that we reconsider—

CHAIRMAN GRAYBILL: Well, now are you prepared in the sense that you voted on the prevailing side?

DELEGATE HARPER: You are right; I am not prepared—(Laughter)

CHAIRMAN GRAYBILL: All right, is there any—

DELEGATE HARPER: —but I'm looking right at a friend for whom, the other day, I moved to reconsider to kill my own measure, and he got it done, and I'm sure Mr. Ask is going to ask for the privilege of moving to reconsider. (Laughter)

CHAIRMAN GRAYBILL: Mr. Ask, are you prepared to reconsider?

DELEGATE ASK: Mr. Chairman, having voted on the prevailing side on this section, I move that the—we reconsider this particular section, and I yield to Mr. Harper for the grounds and reasons.

CHAIRMAN GRAYBILL: Mr. Harper, is the grounds and reasons the same as the reasons you suspended the rules?

DELEGATE HARPER: Just exactly.

CHAIRMAN GRAYBILL: In other words, it's to propose a new Section 2 to the Public Utilities Article of the Public Health proposal, that would say "Any county and municipal subdivision in the state has the power and authority to establish public corporations for the maintenance and operations of utilities, subject to regulations provided by law." That's the motion to reconsider. Do you need to discuss it, Mr. Harper?

DELEGATE HARPER: No. I'd like to point out again, in case they didn't catch it, that on page 29 of their committee report, Section 7, they find these words. That's why I didn't ask a secretary to type up copies for everyone.

CHAIRMAN GRAYBILL: That's of the original committee report? The—

DELEGATE HARPER: Yes; right.

CHAIRMAN GRAYBILL: The reddish-colored committee report. Very well. The motion—

Mr. Heliker.

DELEGATE HELIKER: Was the motion stated as putting this on the ballot as a separate issue?

CHAIRMAN GRAYBILL: Do you intend, Mr. Harper, to put this on the ballot as a separate issue? Is that right?

DELEGATE HARPER: Is it possible to amend this now, or will it be getting under the wire with the wrong—

CHAIRMAN GRAYBILL: No, the—

DELEGATE HARPER: —with duplicity if I just went for a straight vote on putting it in?

CHAIRMAN GRAYBILL: Yes, that would be duplicitous, Mr. Harper.

DELEGATE HARPER: Well, I wouldn't want to be engaged in that kind of process, Mr. Chairman. (Laughter)

CHAIRMAN GRAYBILL: The problem being that you garnered your 51 votes on a motion to suspend for the purpose of putting it on the side, on the ballot. All right, now, the issue is to move to reconsider; all those in favor of reconsidering, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

CHAIRMAN GRAYBILL: The Ayes have it, and it's reconsidered. All right, now, Mr. Harper, would you like to make your motion?

DELEGATE HARPER: The motion now to add a section to the Public Health-Labor-Industry report to be presented to the voters in the June 6th election as a separate issue on the ballot.

CHAIRMAN GRAYBILL: Mr. Harper, do you have that motion?

DELEGATE HARPER: As it was read to you. I don't think I'll go into any kind of a long discussion about this again; I'm kind of hoping nobody else will, unless some of those who weren't here might need some information. I look upon this as something that's permissive. I find—I really found it difficult, the other day—whenever it was; it seems like weeks ago that we discussed this; maybe it was yesterday—but there was so much opposition to it, since it is not mandating anything but simply freeing up counties or municipal subdivisions of the state to do this if and whenever in the future they wanted to do it. As I understand, now this is not permissible unless the Legislature would enact new legislation; and I think it's perfectly in keeping with a lot of the things that we've written into the Constitution. And I would rather sit down and maybe have the opposition show cause, to use a court phrase, as to why this should not be allowed to the people.

CHAIRMAN GRAYBILL: Mr. Arbanas.

DELEGATE ARBANAS: I would like to make a parliamentary inquiry, Mr. Chairman. I wonder: is there some way to test the body whether it would want to split this issue? It seems to me there are really two issues. As I sit here with my next-door neighbor and he's opposed to the idea because of adding one idea to the ballot and I'm for it because I'm for the concept and not too anxious about putting something on the ballot—can we—is there some way to split the issue?

CHAIRMAN GRAYBILL: I don't think there is, at the moment, Mr. Arbanas, because we voted yesterday—or the other day, on the issue; and it's true that a number of people weren't here and it was narrowly defeated. Now, in considering it at this time, it took a motion to suspend the rules. The rules were suspended upon the indication from the mover, Mr. Harper, that his purpose was to place this matter as an issue on the ballot—with public—in other words, it would only be adopted if the public approved it in some form on the ballot. Style and Drafting would have to put it on the ballot in a manner that would allow the public to vote on it. Then, when that passed—and, as you know, narrowly—we had a motion to reconsider, which I construed from Mr. Ask to be within the original motion to suspend the rules for the specific purpose only of the ballot type of issue; so—and then the motion has been made for that effect, so I don't think I could allow an amendment to strip the ballot issue away from it without going back and letting you move to open the—to suspend the rules for a different purpose.

DELEGATE ARBANAS: I understand.

CHAIRMAN GRAYBILL: Now, when this has been—has failed, if you want to try again and test that 50/51 margin, you may.

DELEGATE ARBANAS: I understand, thank you.

CHAIRMAN GRAYBILL: Very well. Mr. Harbaugh.

DELEGATE HARBAUGH: Mr. Chairman. This may be a very fine issue, but I am very much in favor of this proposal, but I would be very definitely against putting it on the ballot as a separate issue. And I'd like to inquire, either from the Chair or from Mr. Harper, what it is a separate issue to. I don't see anything on the ballot presently that stands over against this article.

CHAIRMAN GRAYBILL: The point would be, Mr. Harbaugh, to say, on the ballot: Section 2 concerns the right of county and municipal subdivisions to have power to establish and maintain and operate utilities. Are you for placing this in the Constitution? Yes-No? If they voted Yes, it becomes part of the Constitution; if they vote No, it doesn't. We have done the exact same thing on the—we've sent it to Style and Drafting—on the abolition of the death penalty. The abolition of the death penalty is not in the Constitution. We've said, "Do you want it in there?" If it went in there, it would only have the effect of changing the statutory law in Montana. So this would be put in the same manner; I don't know exactly how Style and Drafting would do it, but it is possible to put an issue to the public that we don't decide here.

Mr. Swanberg.

DELEGATE SWANBERG: Mr. President. I wish to reiterate once again—apparently Mr. Arness and I have a small disagreement here—but I submit that yesterday when we considered the Local Government Article, Sections 5 and 6, on home rule, we specifically allowed municipal—or cities and towns to establish their own municipal electric system if they want to. We say, in Section 5 of the Local Government Article—or Section 6, one of the two—that once they've adopted the home rule by such measures as the Legislature may prescribe, they can do anything that's not prohibited by law. Now there's nothing on the statutes that prohibits the establishment of municipal electric systems. There's not one word about them at all, one way or the other; and that being the case, as the law stands at the present time, they could go ahead and establish their municipal electric system if they saw fit. And I don't see any reason why we should—we have to have some separate issue on the ballot to cover the point twice. That's my point.

CHAIRMAN GRAYBILL: Mr. Arness.

DELEGATE ARNESS: Mr. Chairman. It's correct that we do have a basic disagreement here, and the disagreement is not only with me but with the entire committee and with the intents of the committee report. Dillon's rule is the rule in Montana at the present time. If the proposed Constitution is adopted, Dillon's rule will be the rule in Montana under the new Constitution; that is not changed. There is no change so far as the power of local governments under our proposal. The local governments, at the present time, cannot acquire public utilities and operate them because of the operation of Dillon's Rule. There are some of them, like Libby, that would like to acquire power companies and have not been able to acquire them because of the fact of the status of local government in this state. The status is not changed by the Local Government Article; Sections 5 and 6 create the possibility that the Legislature may set up a class of cities and that a class of cities, once designated, may then apply for a more powerful status than they enjoy. There are two steps there that require action by the Legislature. The rule is the same now as it has always been, and there is nothing in the Local Government Article that you adopted that would permit cities and towns to acquire public utilities. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mrs. Payne.

DELEGATE PAYNE: Mr. Chairman. I beg to disagree with my colleague, because in Section 6 it clearly says, in the Local Government Article, that local government units adopting self-government charters may exercise all powers now prohibited by this Constitution by law or by charter. So, if you want to carry it this far, I certainly think it could be done.

CHAIRMAN GRAYBILL: Mr. Scanlin.

DELEGATE SCANLIN: I've had the reasons explained to me before, but I would like to ask again how it was that the municipality of Saco got their public utility. I should know, but I haven't got the time to go down and look it up. Would one of the—Tom, Mr. Joyce, are you familiar with that statute or how they did it?

CHAIRMAN GRAYBILL: Mr. Joyce.

DELEGATE JOYCE: I don't even know where Saco is. (Laughter)

CHAIRMAN GRAYBILL: Mr. Swanberg—

Mr. Scanlin, are you finished?

DELEGATE SCANLIN: Evidently Joe knows, could he explain it?

CHAIRMAN GRAYBILL: He knows where Saco is.
Mr. Eskildsen. (Laughter)

DELEGATE ESKILDSEN: Mr. Scanlin, Saco is in the eastern part of the State of Montana. It's a fine little city that sits on top of a gas dome. And long before—many years ago, long before the Montana Power Company or the Dakota Utilities and those were barely established in the State of Montana, the city of Saco drilled a well and got gas and they piped it around the city. And later on, other towns tried the same thing, but they wasn't lucky enough to hit the gas. And in the meantime, the Montana Power Company, the Montana-Dakota Utilities, and so forth were established, and they established themselves around the state; and since then, why, you can follow the courses that have taken place. But this happened before those companies moved in.

CHAIRMAN GRAYBILL: Mr. Scanlin.

DELEGATE SCANLIN: Mr. Chairman. Is there any reason that any other community couldn't do the same thing if they wanted to with any utility?

CHAIRMAN GRAYBILL: Are you asking—who are you asking, Mr. Scanlin?

DELEGATE SCANLIN: Anybody that can give me an answer to the question.

CHAIRMAN GRAYBILL: Mr. Eskildsen.

DELEGATE ESKILDSEN: You can't do it now, because they have a franchise within your cities and they have the pipelines and they own the utilities and the power poles and that kind of stuff. If you were going to take over, you would have to buy them out; you couldn't just move in with another franchise.

CHAIRMAN GRAYBILL: Mr. Barnard.

DELEGATE BARNARD: Mr. President. I think I have a—to ask a question of some of the attorneys here. As I understand the situation, it's now permissible to start up a gas system—natural gas system in a municipality, and the electrical side of it is the only one that's excluded. I don't know whether I'm right or not, but that was my understanding of it, and that's the reason that this particular emphasis is on electricity.

CHAIRMAN GRAYBILL: Mr. Mahoney.

DELEGATE MAHONEY: Mr. President. I might state, for the benefit of those that weren't here yesterday—and I don't want to bore this new—other group that has listened to this long debate—but they can, if they wish to sell general obligation bonds, they could go out and do it. The only prohibition is that they can't sell revenue bonds, and this came out in 1953—that's when that law was taken off the books. Now to go back to Saco, they used this originally to get started. Up until 1953, they could use the revenue bonds—this came off the books. Now the big problem on that is that now you have to go to general obligation bonds instead of revenue bonds. This is the prohibition, Mr. Scanlin, as of now on that issue.

CHAIRMAN GRAYBILL: Mr. Heliker.

DELEGATE HELIKER: Mr. Chairman. If the legal research which was done by our committee analyst is correct, there is no statutory authority for a municipality to go into the electric business. They can go into the gas business, because there is specific authority for that.

CHAIRMAN GRAYBILL: Mr. Swanberg.

DELEGATE SWANBERG: Mr. President, the—that's true as things stand now, but we're talking about a new Constitution. We're talking about the future here; we're not talking about 1927 when the statutes which allowed cities and towns to put in their own gas service was put in effect; we're talking about the future. And under Section 6 of the Local Government Article, as Mrs. Payne pointed out, if any city or town adopts the home rule procedure here, it says right in there they can do anything—they may exercise all powers not prohibited by this Constitution, by law or by charter. Now there's not a word in the statute that prohibits a city or town from setting up their own municipal system. So why can't they set it up in the future? That's my point.

CHAIRMAN GRAYBILL: Mr. McDonough.

DELEGATE McDONOUGH: Mr. President. I really promised myself today I wouldn't get up on this issue, but I have to again. I forgot to tell you yesterday that I might have a special interest in this thing, which I'd forgotten about; that our law firm represents the Golden Valley Electric Co-op. And I have no idea how they feel on this issue, so I think I'm free to talk about it. But I did want to get up, but I have to object to it again on the grounds you're legislating, and all you have to do is read this thing—"establish public corporations for the maintenance and operation of utilities". Now, it doesn't say anything about constructing them; it doesn't say anything about purchasing or acquiring utilities. If you adopt something like this, and I agree with the concept—I've been that way for 20 years—of public utilities and Nebraska system. But I just say, you're like Don Quixote and the windmill by adopting this thing; and you're actually going to mislead the voters by putting it on the ballot, because you're going to lead the voters to believe that, by adopting this section, that they're going to be able to acquire utilities; and even by it's wording it doesn't give them the power to acquire and it even—even if it did put the wording in there—you could acquire—that it's still up to the Legislature to tell the public—these counties, municipals only, it doesn't even go as far today as to say "public utility districts". And you could have a very uneconomical unit by counties and cities only, as Charley brought out the other day. So I think you're just like Don Quixote and the windmill: if you adopt it, you're going to mislead the voters; and if it's passed by the voters, it isn't going to do anything anyway.

CHAIRMAN GRAYBILL: Mr. Davis.

DELEGATE DAVIS: Mr. President. I certainly support what Mr. McDonough said on that and where it says "subject to regulation prescribed by law". For the benefit of those who weren't here yesterday, I come from Dillon and I have nothing to do with the Dillon Rule.

CHAIRMAN GRAYBILL: Mr. Harper, do you want to close?

DELEGATE HARPER: I'd be glad to close.

CHAIRMAN GRAYBILL: Mr.—Wait a minute. Mr. Mahoney, aren't you willing that he close?

DELEGATE MAHONEY: I would like to just say one thing, that I was answering a question the other time and I don't want to belabor a point. But if this Constitutional Convention is coming out here now to issue or send out petitions to the voters, and this is what we're doing—I mean, here we're sending out—it is not alternative or anything like that. This is what we're going to do is—getting initiative to the people—of the Constitutional Convention sending it to them, this is what we're doing under this initiative.

CHAIRMAN GRAYBILL: Anyone else care to debate it before Mr. Harper closes?
Mr. McKeon.

DELEGATE McKEON: Mr. Chairman. I want to say, without belaboring the point, that I think that the issue here is whether or not we want to give the voter the choice. I can't imagine anyone—I can't imagine the Montana Power Company—wish to deprive the voter of his choice as to whether or not he wishes to be under a public utility or such as this or under Montana Power service. So I think that if we decided this issue just on the merit of giving the voter a chance, a choice to decide what he wants, I think that we would have realized exactly what we're doing. So for that reason—that we are giving the voter a choice, I will urge that we do support this. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Harper—Oh, all right, now, I don't want to cut off debate. But are you—do others want to debate it now?
Mr. Kamhoot.

DELEGATE KAMHOOT: Mr. Chairman. I would just like to remind Delegate McKeon that this delegation had a wonderful chance to give the people of Montana a chance, just the other day when the right-to-work law was up. And that was supposed to be put on the ballot—if we wanted to give the people a choice, so—and we couldn't do that. I don't see why we should give them a choice on something like this. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Kelleher.

DELEGATE KELLEHER: Mr. Chairman. I'd like to know whether Mr. Harper's language is amendable.

CHAIRMAN GRAYBILL: If we adopt the thing, it's amendable, yes.

DELEGATE KELLEHER: But not until we adopt it?

CHAIRMAN GRAYBILL: Well, I don't care; if you want to amend it, I suppose I could let you. The point is that if we amend it and then spend an hour debating the amendment and then it loses, its useless. I would rather decide whether we're going to put something on the ballot; and if so, you may amend it.

DELEGATE KELLEHER: Very good. Mr. Chairman, what I'm going to do is explain what my amendment would be if his motion passes.

CHAIRMAN GRAYBILL: All right.

DELEGATE KELLEHER: I am going to add the words "or public utility districts" and I'm going to add in the first part, so it'll read: "Any county, municipal subdivision or public utility districts of the state have"—H-A-V-E—"the power and authority to establish public corporations for the", and I'm going to add the word "acquisition" before the word "maintenance and operation of utilities". Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Very well. Is there other debate?
(No response)

CHAIRMAN GRAYBILL: Mr. Harper, do you want to close?

DELEGATE HARPER: No, Mr. Chairman, as I feel very much like Don Quixote on this; but as I remember the story of Don Quixote, the windmills didn't come and attack him. And we have tilted with some very lively windmills; in fact, this is the thing that has piqued my interest in this whole thing. We are constantly assured that we can already do all of this; that the amendment doesn't mean anything; that it won't change anything. And yet there's a terrific reaction toward putting this in. Now, is it Legislative? Well, I ask you if it's any more legislative than saying, "We'll have an 8-hour day, unless we change our mind to have it either longer or shorter"—which is what we've put in—and several other instances I could cite you. Seriously, I, too, am thinking about the future, and I think the people ought to be; I think we ought to be. There will be a day when Billings is 300,000. I hate to think about that. Right now it might not be feasible for most Montana villages, towns, and even cities to consider this, but there might come a day when it would be feasible. If it's not feasible, if it's not profitable, cities or municipalities or public utility districts won't be formed and they won't acquire and maintain and operate utilities; so I suppose my basic idea is that—what will it hurt to give this a try? If we are this evenly divided here, this may or may not be an indication of public reaction to this. I have an idea that if it's put on the ballot, you'll discover that an awful lot of people in cities and municipalities across this state will be for the idea of allowing themselves this freedom.

CHAIRMAN GRAYBILL: Very well. The issue is on Mr. Harper's motion to add a subsection 2 to the Public Utilities Article of the Public Health proposal. The public—
Mr. McKeon.

DELEGATE McKEON: Can we have a roll call vote on this?

CHAIRMAN GRAYBILL: Yes. The proposal to say: "Any county or municipal subdivision of the state has the power and authority to establish public corporations for the maintenance and operation of utilities, subject to regulations provided by law." Roll call vote. All in favor, vote Aye; all opposed, vote No. Have all the delegates voted?
(No response)

CHAIRMAN GRAYBILL: Does any delegate—Now, everyone should understand the motion is to place this on the ballot. I don't know whether I stated that, but that's what it's for.
Mr. Anderson, for what purpose do you rise?

DELEGATE ANDERSON To explain my vote.

CHAIRMAN GRAYBILL: Very well.

DELEGATE ANDERSON: I have studied this Constitution, and in Article XIII, Section 5 and Section 6, which are now cancelled, I believe that this authority already rests with the city if—or county if they get legislative authority.

CHAIRMAN GRAYBILL: Has every delegate voted?
(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to change his vote?
(No response)

CHAIRMAN GRAYBILL: Very well, cast the ballot.

Aasheim	Aye
Anderson, J.	Nay
Anderson, O.	Nay
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye

Ask	Nay
Babcock	Nay
Barnard	Aye
Bates	Aye
Belcher	Nay
Berg	Nay
Berthelson	Nay
Blaylock	Aye
Blend	Nay
Bowman	Nay
Brazier	Nay
Brown	Nay
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Nay
Conover	Nay
Cross	Aye
Dahood	Nay
Davis	Nay
Delaney	Absent
Driscoll	Aye
Drum	Nay
Eck	Aye
Erdmann	Nay
Eskildsen	Absent
Etchart	Nay
Felt	Absent
Foster	Aye
Furlong	Aye
Garlington	Nay
Graybill	Aye
Gysler	Nay
Habedank	Nay
Hanson, R.S.	Nay
Hanson, R.	Aye
Harbaugh	Nay
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Excused
Jacobsen	Nay
James	Aye
Johnson	Nay
Joyce	Nay
Kamhoot	Nay
Kelleher	Aye
Leuthold	Nay
Loendorf	Nay
Lorello	Aye
Mahoney	Nay
Mansfield	Nay
Martin	Nay
McCarvel	Aye
McDonough	Nay
McKeon	Aye
McNeil	Nay
Melvin	Aye
Monroe	Aye
Murray	Nay
Noble	Nay
Nutting	Nay
Payne	Nay
Pemberton	Nay
Rebal	Absent
Reichert	Aye
Robinson	Aye
Roeder	Nay
Rollins	Aye
Romney	Aye
Rygg	Absent
Scanlin	Nay
Schiltz	Aye
Siderius	Aye
Simon	Nay
Skari	Aye
Sparks	Nay
Speer	Aye
Studer	Nay
Sullivan	Nay
Swanberg	Nay
Toole	Absent
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Nay
Warden	Excused
Wilson	Nay
Woodmansey	Nay

CLERK HANSON: Mr. Chairman, 43 delegates have voted Aye; 49 have voted No.

CHAIRMAN GRAYBILL: 43 having voted Aye, 49, No, the issue fails. Are there other amendments or motions? If not, Mr. Murray would like a motion to rise and finally report on Public Health, Welfare, Labor and Industry and Education and Public Lands.

DELEGATE MURRAY: Mr. Chairman, I so move.

CHAIRMAN GRAYBILL: All in favor of rising and finally reporting on these two substantive—two Style and Drafting proposals, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No. (No response)

CHAIRMAN GRAYBILL: So ordered.

PRESIDENT GRAYBILL: Will the clerk please read the report of the Committee of the Whole.

CLERK HANSON: "March 17th, 1972. Mr. President. We, your Committee of the Whole, having had under consideration report Number 10, Education, from the Committee on Style and Drafting, recommend as follows: and—that the committee rise and report. Signed: Leo Graybill, Chairman."

PRESIDENT GRAYBILL: —should be "rise and report finally"—or "fully". "Rise and report finally". Very well, the motion is that this committee—

Mr. Murray.

DELEGATE MURRAY: Mr. President, I move adoption of the Committee of the Whole report and that the Style Committee's reports Number 9 and 10 be referred to Order of Business Number 5.

PRESIDENT GRAYBILL: All in favor of Mr. Murray's motion that these two—that the Committee of the Whole report on these two articles be adopted and that they be placed in Order of Business Number 5, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

(No response)

PRESIDENT GRAYBILL: So ordered. Now, without objection, we'd like to be on Order of Business Number 7, Motions and Resolutions—No, Order of Business Number 1. All right, is there objection? Otherwise, we'll go to Order of Business Number 1.

Mr. Clerk.

CLERK HANSON: "Mr. President. We, your Committee on Rules and Resolutions, having had under consideration resolution Number 15, introduced by Delegate Johnson, recommend that the said resolution be not adopted. Committee on Rules and Resolutions. Signed: Murray, Chairman."

PRESIDENT GRAYBILL: Very well, that'll be referred to Order of Business Number 7. Now what's your other one?

CLERK HANSON: "Mr. President. We, the Committee on Style, Drafting, Transition and Submission transmit revisions of the Bill of Rights Article for consideration of the Convention on Order of Business Number 5." Mr. Chairman.

PRESIDENT GRAYBILL: Very well, the Bill of Rights has been received—the Bill of Rights Article has been received back and it's placed on Order of Business Number 5 for tomorrow morning, and Mr. Johnson's motion—or Mr. Johnson's resolution is on 7, and the Rules Committee proposal on that resolution has just been referred to Number 7. Without objection, the Chair would like to be on Order of Business Number 7.

Mr. Murray, will you take up Mr. Johnson's matter, and then we'll give it to Mr. Johnson.

DELEGATE MURRAY: Mr. President. I move that the report of the Committee on Rules and Resolutions that resolution Number 15, the resolution by Mr.—by Delegate Johnson—that it be not adopted—actually, be adopted—by this Convention. I think that all of you have had an opportunity to take a look at resolution Number 15. It reads: "Whereas, this Constitutional Convention has cost the State of Montana $700,000 in money and has cost its delegates about 8 months of their lives, devoted to study and research in the field of constitutional government; Whereas, we certainly do not want to waste the effort, money or time involved. Therefore, I move this Convention consider the following: The Montana Constitutional Convention shall, after completing debate on the proposed Constitution, recess for 5 months, to August 15, 1972, and then convene and reconsider our new proposed Constitution in its entirety. After this interim, used for knowledgeable consideration and observation, we will complete a superior document, more worthy of this dedicated group of delegates and more worthy of Montana." This matter was referred to the Committee on Rules and Resolutions. The committee met this morning, heard certain witnesses; met again at noon, heard other witnesses; took its vote, and unanimously—seven to nothing—recommended that the resolution be not adopted. Mr. Johnson presented to the committee his ideas, with respect to the recess which he requests in his resolution, most eloquently. He indicated that he felt that, quite frankly, we were in some difficulty with the proposition of having our proposed Constitution adopted at this time; that there were things in it that he did not believe that he fully understood and, because he could not understand them, at this time could not support them; would sincerely like to have an opportunity to go home and reflect on these matters and visit with his constituents to see if he could not persuade them to what we had done and, if not, to study the proposition more fully to see that he—make sure that he understand—understood what we had done; and then to return to ascertain if this Convention would, perhaps, if necessary, reconsider any action that it had taken on the various matters of concern to him and to others. And he is quite persuasive in this particular respect, and there is much merit to his proposition. Unfortunately, it is the position of the Committee on Rules and Resolutions that his resolution comes forth at a very late date, after this Convention has already decided that its election date should be held on June 6, 1972—just over 2 months from now; after this Convention has placed in motion the operation to accept bids—or receive bids for its voter information pamphlet and has let those bids; after this Convention has considered and pressed hard under its financial limitations to arrive at the point where we nearly are at this particular moment. And the Committee on Rules felt that it was not in the best interests of the delegates of this Convention nor of the citizens of the State of Montana that we delay the ending of our Convention, the adjournment sine die, and the submission of this matter to the voters on June 6, 1972. Now, I do not mean to advise this body that it is for financial reasons that the committee decided to vote against Mr. Johnson's resolution; it is not for financial reasons. As the President will report to you after this matter has been taken care of, we are solvent. We are in good financial condition, and perhaps we could return, but it is the position of the Committee on Rules, as I have explained, that this would not be a proper thing. There were many factors which came into our minds as we deliberated on this particular issue. We now have 100 of us here; we may not again have these 100. There are some of us who are a little older than others; and I hate to think that we might perhaps lose those—and, of course, we would have new delegates appointed—but you 100 would not be with us, or some of you. We take that chance if we delay this matter. We have placed into operation and have considered the staff necessary, have made all of the arrangements, we think, that we could have made in proper fashion to place this matter on the ballot in—June 6, 1972. We recognize another distinct difficulty and possibility; I cannot say that this is the final ruling on this matter, because should someone litigate the issue, there might be a different decision—but it occurred to the Chairman of the Rules Committee that if we delayed this matter—if we delayed adjournment sine die until after the June primary—that those of us—and I am not one, I assure you—who may have an interest in running for public office in this state this year, 1972, would most certainly be foreclosed from that possibility. And I could not, for one, participate in asking any of you to foreclose that if your hearts and minds are set on that particular endeavor, and if they are, as many of you have indicated, as I read in the newspapers, with you—that you are somewhat interested, then I think you should have that opportunity. And so, Mr. President and fellow delegates, it is our recommendation that the resolution be not adopted and that we proceed as we are scheduled. Thank you.

PRESIDENT GRAYBILL: Mr. Johnson.

DELEGATE JOHNSON: Mr. President.

PRESIDENT GRAYBILL: Mr. Johnson.

DELEGATE JOHNSON: May I speak a little bit on this?

PRESIDENT GRAYBILL: You betcha, Mr. Johnson.

DELEGATE JOHNSON: Thank you, sir. Fellow delegates, I feel that—and I always have since I came up here—I guess I better state my position, this special-interest group that I represent—they include the Norwegian sheepherders up in the northeastern part of the state and the Indians on the reservations and the Irish cowboys over in Butte and, of course, those prospectors down along the Yellowstone; that's all of Montana; and this is the group that I really came here to represent. I haven't had any particular friction—or, that's not the word, trouble with my people back home. They haven't brought a lot of pressure on me, but I know pretty much how they feel about these things. I don't want to see this effort that all you folks have made, concentrated effort for the last many months—and I've made it, too; I started studying what little I could get hold of before we started getting these research analyst books, et cetera, when I had filed for the primary; I was very interested in doing a job here for Montana. This is a primary interest. It's cost a lot of money; it's cost a lot of people's times; and I surely do not want to waste it. I think we stand a little bit of a chance of wasting it. You heard—I don't want to repeat what Mr. Murray told you because that would just take up some time. I might add that since we—or since I put the date of August 15th in here—that's an arbitrary date; that is a date, though, if we would meet at that time, we could still get it on the fall ballot. But I do think that the ideal thing to do would be actually to recess until—for a year, until after the session of the next Legislature, when this all would again be available to us. I do believe we could do this in 10 days, or a short time. There might be two or three of us gone; I might not be here, either. Another winter would have gone by, and you can slip and fall under a horse pretty easy, you know, in that time. But there would be somebody to take my place, surely, and there would be somebody to take any of you fellows' place. There is not a one of us here that are indispensable, I'm sure; and there's no one here that isn't really dedicated to what he thinks is the best interest of Montana; I am sure of that. So I urge you to consider this very carefully when you vote. Thank you, Mr. Chairman, and all you people.

PRESIDENT GRAYBILL: Very well, is there any debate on this matter?

Mr. Kelleher.

DELEGATE KELLEHER: Mr. Chairman. I would like to say this: that I agree with a lot of things that Torrey says. I do wish that we had a little rest in there; and I do think we went at it too fast—and I sure would recommend for future Montana Constitutional Conventions that they take the example of North Dakota. I think North Dakota was right and that we were wrong in the way we handled ours, but I'm also looking at the State of Missouri. Theirs dragged on for about a year and a half, Torrey, and the people just plain lost interest in it, and when it got on the ballot, they just didn't even turn out and vote for it, as I understand it. And I think we've come this far now and we've done a pretty good job, and we should just hang in there.

PRESIDENT GRAYBILL: Mrs. Pemberton.

DELEGATE PEMBERTON: Mr. President, there's no one respects the position of my colleague from District 1 more than I do. We're very good friends, although I do not support his resolution. I know it was made in good faith and probably expresses the feeling of many of us that we wish we did not have to be in such a hurry. In looking back over these past weeks, we have made many decisions, and I'm sure that Torrey will also think—when we're through and go out over the State of Montana to explain the Constitution, he will be one of those who has the best explanation of all and will do a great job. I think it's great that he had the courage to come at this time with his resolution. I'm proud to be serving with him. Thank you.

PRESIDENT GRAYBILL: Very well. Mr. Johnson, do you want to close?

DELEGATE JOHNSON: You betcha. We want a roll call.

PRESIDENT GRAYBILL: Oh, you want a roll call. Very well, a roll call will be had. The issue is on the motion of the Rules Committee that we recommend that the resolution be not adopted, that Mr. Johnson has presented. You have Mr. Johnson's resolution Number 15 before you, and you have the Rules Committee's recommendation that it be not adopted.

Mr. Murray.

DELEGATE MURRAY: Mr. President. I don't mind using the board so that we know how we have voted on the issue, but the rules do not provide for a roll call on resolutions.

PRESIDENT GRAYBILL: The rules don't provide for a roll call vote on resolutions. Is that your point?

Mr. Johnson.

DELEGATE JOHNSON: Mr. Chairman, I move that we suspend the rules in this case.

PRESIDENT GRAYBILL: Well, Mr. Murray?

DELEGATE MURRAY: I'll support that.

PRESIDENT GRAYBILL: All in favor of suspending the rules, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

DELEGATES: No.

PRESIDENT GRAYBILL: So ordered. Now, we've got that done. All right, we're going to have a roll call vote on Mr. Johnson's—or on the Rules Committee proposal that we do not adopt Mr. Johnson's proposal. Now, if you vote Yes, you're voting with the Rules Committee not to adopt it; and if you vote No, you're voting with Mr. Johnson. So, the ballot is open. If you vote Yes, that's not to adopt it; if you vote No, that's to go with Mr. Johnson. So you vote Yes if you're ready to continue with the present planning, and you vote No if you want to wait till August, to put it bluntly. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, I'll close the ballot. Take the vote.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Nay
Artz	Nay
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Nay
Brown	Nay
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Absent
Driscoll	Nay
Drum	Absent
Eck	Aye
Erdmann	Aye
Eskildsen	Absent
Etchart	Nay
Felt	Absent
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Nay
Habedank	Aye
Hanson, R.S.	Nay
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Excused
Jacobsen	Nay
James	Nay
Johnson	Nay
Joyce	Aye
Kamhoot	Nay
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Nay
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Nay
McNeil	Nay
Melvin	Aye
Monroe	Nay
Murray	Aye
Noble	Aye
Nutting	Nay
Payne	Nay
Pemberton	Nay
Rebal	Nay
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Nay
Schiltz	Aye
Siderius	Nay
Simon	Aye
Skari	Nay
Sparks	Aye
Speer	Aye
Studer	Nay
Sullivan	Aye
Swanberg	Absent
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Nay
Warden	Excused
Wilson	Nay
Woodmansey	Aye

CLERK HANSON: Mr. President, 67 voting Aye, 26 voting No.

PRESIDENT GRAYBILL: 67 having voted Aye to sustain the Rules Committee and 26 having voted No to wait till August, the motion fails.

Very well, Mr. Toole, would you come forward. Without objection, the Chair would like to move to Order of Business Number 8, Unfinished Business.

(Vice President Toole assumes the Chair)

VICE PRESIDENT TOOLE: The Chair will call on Mr. Graybill for a report on the budget.

DELEGATE GRAYBILL: Mr. President. Today is Friday, the 17th of March, and I have an Irish report for you—that's one that looks up on this day. If you'll take the budget report before you, I'd like to go over it with you. And I'd like to say, to begin with, that our financial condition looks brighter than it has at any time and it does appear that we will get through—if we proceed on the present plans, we'll get through our whole program in the black, which I think is very good news for this Convention. Now, first of all, notice that this budget is styled "March 24th". Now, it obviously isn't March 24th yet; it's March 17th; but I asked—it's—our costs, our daily costs are quite stable and fixed, and I asked Mr. Brown to estimate for us where we would stand at the end of next week. I'm not saying we'll be through on the—on Friday, but at least that gives us a pretty good idea of where we would be when we finished up and could adjourn. You'll notice that, by that time, we will have spent all the salary money; we will have spent all the wage money, except for $5,007, which has been put in as part of the federal grant. Now, I told you I would show you the federal grant, and if you look at the bottom of the second column, you'll see that our total money is now $529,281, and that's because we've added the $30,000 in. Now, we have not signed for the $30,000, because we needed the committee that we just created yesterday and we just haven't quite physically got it done, but the $30,000 is, we understand, available. Secondly, we cannot draw on the 30,000 until the 31st of March, but when we do, we can draw as of the 1st of March. So, the three numbers in the first column that are asterisked, the $5,007 and the $500 under Communications and the $23,900 at the bottom, are the tentative allocation of the $30,000 to the budget. The request for the HUD funds did include paying for the Style and Drafting costs after March 1st; that's why the $5,000 is up there in Style and Drafting. In other words, we will be able to lend ourselves money and recover from HUD money to pay the costs of Style and Drafting from March 1st on. Style and Drafting didn't have too much to do before then, but a little, but we can't pick anything up behind March 1st. But we can pick all the staff and lawyers' salaries up, and there's quite a lot of money there, because there are seven or eight typists up there. All right, that explains why that's up in that part of the budget. The rest of it is down there, lumped in Public Information, where it really will go. All right. Now, the next thing I'd like to point out to you is that, by next week, the employee benefits will all be exhausted, and the $5,007 lays there and will be available to cover some of our costs there at that time. Now, we will be in a deficit position in some of these categories by then, because—but we have balanced that by our contingent fund. You'll recall that our contingent fund was $40,000—the last item down there, as budgeted—and we've spent, by spreading it up there for these other costs to make the delegates' salaries and the wages and everything else come out even—we've spent all but 5,000 of that contingent fund by next March 24th. Now, the next thing you should note: we didn't lose our heads and buy you a lot more stationery. The stationery expenses by next Friday are accrued at 16,000 because we added in, at that line, the cost of the voter information pamphlet, which the bids came in at about twelve or thirteen thousand dollars—twelve thousand five—and we're buying a few extra copies—so twelve or thirteen thousand dollars. We put it on that line because, otherwise, it would distort our contracted services; and the fact of the matter is, our stationery was stable and nobody was buying any more stationery; and that's why it's thrown in there. That's why that account now is in grave deficit there. Communications—we have a little money left in postage, but we have accrued through next week enough, we believe, to send home the last batch of material that has to go home and go to the clerks and recorders and the libraries, so we're pretty close on that. I think that the telephone will also break about even then, although we might be a little over, because quite obviously we're going to have to keep some telephone service between March 24th and the 6th of June. I might tell you that the telephone company—I think I hinted this before—but the telephone company negotiated the bill with us when we took out all of that service. The upshot of it was that the bill through February 17th was negotiated to $4,600, and then, the addition from then till now brings it up, as you can see there, to $5,600. We had a bill for the first month of 5,100 once, but we talked them out of that, in a friendly manner. Okay. You can see that we anticipate spending about 500 more on the telephone up till June. Now, travel—technically, we're ahead on travel, because if we do not adjourn, if we work Monday and Tuesday and then have our final ceremonies, say, Thursday and don't send you home for Wednesday, we really have saved one round-trip. You've been paid two round-trips. I hope all of you haven't spent the money you're to go home on, but you really don't get another round-trip unless we bring you back here, in case of some disaster. So we really ended up—we had—we budgeted three round-trips and we only spent two round-trips. Now, contracted services—I'm happy to say that we are, at the moment, in good shape in printing. I realize that many of you have told me that you thought we printed an awful lot of stuff and put it on the desks, but we have had an awfully good deal on printing downstairs. We—you know, we bought the printshop and operated it jointly with the state office, and it really costs a ridiculously low figure to put one sheet of paper on your desks. I don't want to tell you how much; we're not quite through yet, but we've gotten by pretty well on printing. Now, we're not quite through with printing, but we have accrued printing at the present rates through next—March 24th. It's conceivable that there might be some printing that we would need to get into in conjunction with voter information or voter education, but, basically, I think you can say that we got by well on printing, and that's one of the reasons we're in good shape today. Our equipment rental and Xerox and that sort of thing is going to come out pretty close. Our court reporter—we've estimated spending all that we've accrued. We might actually be off on that; it's rather difficult to say. We've done this by checking with the reporters as to how many pages per day they think they are running, but the truth of the matter is they haven't typed a whole lot. That is, we haven't—it isn't—I think we have the transcript typed—perhaps Marie can tell us better than I—but I think it's typed up through maybe the 1st of March or something like that, but most of the debate is not typed yet. And exactly how many pages, we don't know, but based on the number of pages they estimated, and taking it through next Friday, we'll come out about even. On our per diem, we come out in the hole, as you can see, and that's part of the money used borrowed from the contingent fund. In other words, we spent a hundred and seventy-seven and we had budgeted a hundred and sixty. On our consultants, however, we came out ahead. We haven't spent near that amount of money, and we have a little there. On our Commission expense, I want you to note that we have, at the moment, picked up, by necessity, $3,400 worth of Commission expense. Now, about sixteen—fifteen or sixteen hundred dollars of this, you'll remember, was picked up in the form of office supplies that we agreed to take, and a few of the books. And the Commission had a debt which we did not pick up, which is not shown there. The reason that has grown to now $3,400 is that as we've laid off some employees who had been working for the Commission, some of them have been working more than a year for the state, and they had accrued vacations and they had accrued other fringe benefits, and we've had to pay our share of it, and since the Commission had no money, we have paid the Commission's share of those fringe benefits. On public information, because of some reverses in the filming industry, we didn't get our film thing worked out because of changing the date. We saved a lot of money there, and Public Information ended up with quite a bit of its money. And, of course, we've put with it the balance of the HUD money, the total being 46,000. Now, we hope to spend, say, 50,000 on public information, as that pamphlet—or as that memo said the other day, but you can see that the 50,000 is, in fact, available, because we have 5,000 left in the contingent fund, assuming that everything works out as of, say, March 24th next week. So, if everything works out fine and we spent—you see, the balance that we'll have unencumbered after next March 24th, after we adjourn, will be about $58,000. And if we spend, say, 50,000 for public information, we are in the black. So, I think that's good news and I'm happy to report it. I intend to continue to hold the line. And we might even be in the black more, but at least we can now see the end of the tunnel, and it looks like we're going to make it. Now, are there questions?

Mr. Monroe—Oh, excuse me, Mr. Toole. Mr. Acting Chairman, I—

VICE PRESIDENT TOOLE: Mr. Monroe.

DELEGATE MONROE: Will Mr. Graybill yield to a question?

DELEGATE GRAYBILL: Yes, Mr. Monroe.

DELEGATE MONROE: I was wondering: who will bear the expenses of the journal being printed?

DELEGATE GRAYBILL: Well, now, I think I know what you're getting at, and I'll discuss it with you. You don't mean the journal, which is what Rosemary types, the transcript and that. You mean the transcript, and the situation on the transcript is this: the $15,000 pays for one copy, which Marie Durkee delivers to us as she finishes it, and her contract provides for a hundred—$1.50 a page and so much a day—I think it's $40 a day—and she has to deliver it by July 1st. She's typing on it, and so is Marie. That is, they split this and type—one types and one works here, and so forth, but they don't pretend to be up with us. Now, when the rest of it is typed, they will give us this one copy. We now have about 1,200 pages of it. Now, because of the danger, quite frankly, that Mr. Toole and I saw in something might happen to that one copy, we did decide to print in our shop downstairs a few copies; and we tried to price it out, and we had a lot of difficulty getting a price, and finally, we got one and we determined to print about 10 copies for the pure purpose of having more than one. I didn't want a St. Louis incident to happen and have us lose the transcript, so we printed 10. Now, all we've printed so far is 10 copies of the first 1,100 pages, but we had intended to print 10 copies of the whole eight or nine thousand pages, as they become available. But one of the reasons, if I—I think this is an open convention; we might as well be completely open about it—one of the reasons I was off the Chair this morning was that we got an estimate up from downstairs that it was going to cost us $5,000 to print the rest of the transcript, because we weren't going to own the printshop after next week. And we had a little discussion about that and called a few people, and I'm happy to report that we will get our 10 copies for about $750 total, and they have dropped back down to a labor and materials only cost on us, and we're in good shape. This is about 10 copies of the transcript. Now, what we're going to do with those: if the Constitution happens to pass, the Legislature will clearly have the duty to provide printed copies of the transcript for law libraries and everybody else. If it happens to fail, I suppose there will not be such a great interest in printing the 8,000-page or 10,000-page transcript, and in that case, we would see that the Universities—both of them, major ones—and the Historical Society and—we'd spread these 10 copies among the major libraries and archives, and that'll be that. And if you have a little mimeograph machine, why, we'll see that you can print one for yourself at 5 cents a page. Other questions?

VICE PRESIDENT TOOLE: Mr. Hanson.

DELEGATE ROD HANSON: Yes, Mr. President. Leo, on special expenses—per diem, there—we show a hundred and sixty thousand budgeted and a hundred and seventy-seven thousand five hundred spent, with nothing encumbered and no balance.

DELEGATE GRAYBILL: Well, the reason—that's what I explained. What Mr. Brown did—we only figured for only 9 weeks, I believe it was, see. Well, that ends tomorrow, but he computed, now, in the third column there, the hundred and seventy-seven thousand, what our per diem will be through next Friday. So, it ran us over our 9-week budget, and he used the money in the contingent fund—the 40,000 we initially had has been spread part of it back up there and part of it back, you see, at the top line. We've spent—we will have spent a hundred and eight thousand in our salaries, when we only have—had budgeted 96,000 for the first 9 weeks. And the same is true of staff; we budgeted at sixty-six and we spent seventy-one, et cetera, et cetera, see. So he's taken our famous contingent fund—it's now gone after next Friday, see.

DELEGATE ROD HANSON: (Inaudible)—the University budget comes out. (Laughter)

VICE PRESIDENT TOOLE: Mr. Leuthold.

DELEGATE LEUTHOLD: Mr. Chairman—Mr. President. Some people are asking, "Why is it—are we getting 30,000 from the federal government?" And I can't give them an answer, and I was wondering if you could clear that up. Why do we get 30,000 from the federal government?

DELEGATE GRAYBILL: We applied for a grant from HUD. Many other have applied. The whole state reorganization program—that is, our 20-department reorganization program—is financed by HUD, the organizational part of it. Many other public bodies have done this. The State of North Dakota just got 40,000 from HUD for this same purpose. We applied for it, and we explained what we wanted it for, and we told them we wanted it so that the Style and Drafting Committee would have—we wanted it for funding part of the Convention expenses—namely, Style and Drafting; we wanted it for public education purposes, because we anticipated that without it, we would not have sufficient funds to adequately inform the public—and they will buy public education, which we're doing, and this is the voter information pamphlet and this is the panel programs on the TV and that sort of thing. In other words, the public information will be obviously funded half by them and half by us, and they have a program—HUD has a program which—the purpose of which is to assist any local governmental unit which cares—which attempts to improve its governmental forms or facilities—or any local governmental unit that is working on a project which will improve local government. And HUD has a program for that, and we applied and we got it; that's all.

VICE PRESIDENT TOOLE: Any further discussion on the budget?
Mr. Blaylock.

DELEGATE GRAYBILL: Mr. Blaylock.

DELEGATE BLAYLOCK: Mr. Chairman. Leo, on this $50,000 we have that we're going to spend for this education, now, I take it, now, this is—will be neutral, insofar as it goes out on TV and radio and things like that. This is simply education; it's not pro-Constitution or anti-Constitution.

DELEGATE GRAYBILL: Well, when you say "neutral"—I mean, you can't honestly mean neutral. I mean—but we're going to let you and we're going to let Archie both explain it at the same time. (Laughter) Now, even I can't call that neutral, but we're going to (Laughter) explain it fairly. We have Mr. Schiltz's resolution, and we have him on the committee; and we're going to explain it fairly and broadly, and we're going to tell them what's in and what's out, and we're going to answer questions fairly, and we're going to put out information that is the—many of you have seen the Illinois thing; we'll do the same thing. We'll put the new text; we'll put in color what's been—what this changes; certain parts are out of the old Constitution; this is the same as certain parts of the old Constitution, et cetera, et cetera. And, yes, we're going to be objective. We're going to be objective. Any other questions?

VICE PRESIDENT TOOLE: Mrs. Reichert.

DELEGATE REICHERT: Mr. Chairman. I would just like to say, on behalf of the other 99 delegates who I know must share my opinion, that it's highly commendable that we were able to operate in this fashion in these days when budgets are so seldom balanced. Thank you very much for all the hard work.

DELEGATE GRAYBILL: Well, if you celebrate this tonight, do it on somebody else's money. (Laughter)

VICE PRESIDENT TOOLE: Mr. Davis.

DELEGATE DAVIS: Mr. Slavedriver; I mean, Mr. President. This is off the budget, but what do you foresee our schedule next week? Now, it's a little off the budget.

DELEGATE GRAYBILL: Well, we're going to debate General Government tomorrow. May I use this time, Mr. President, to explain the schedule?

VICE PRESIDENT TOOLE: Yes, sir.

DELEGATE GRAYBILL: And I don't know, Carl, but the best estimates that I have are that we're going to debate General Government tomorrow. I don't know whether we'll finish, but it's possible that we might finish. Then on Monday morning, we have to take up Style and Drafting on Local Government and on General Government. They will—they have—theoretically, I think Mr. Schiltz has got Style and Drafting done on Local Government, or will have it tonight, but we can't get it printed tomorrow without overtime, and I still haven't let them do that. So—but they'll print that between 8:00 and 9:00 or 8:00 and 9:30 in the morning. We'll be able to go Monday morning on Style and Drafting on Local Government, and he will have style and drafted over the weekend on General Government and we'll be able to go on that as soon as we're finished. Now, if we have to debate a half a day on General Government, fine; but in other words, we'll finish up those Style and Draftings first. The reason we must go Monday on that is that the other processes simply can't go forward until we have style and drafted all of these 10 articles and send them back through Order of Business Number 5. Now, as soon as we have done that, we'll finish Order of Business Number 5 on Bill of Rights, which we might do tomorrow if we got through with General Government, or if we took it first. Either that, or General Government might take more than a day, see. But by Monday night, we ought to be through with that; that is, with Order of Business Number 5 on Bill of Rights. Then we've got Order of Business Number 5 on Local and General Government, which we'll either do Monday or Tuesday. By that time, Mr. Schiltz has got to come up with his corker, the ballots, and we've got to debate Style and Drafting's substantive proposal for a ballot. And after we've debated that, then Style and Drafting and the machines have to print and type. Now, that'll be, I suppose, Tuesday and Wednesday. If we were really through Tuesday, we might shoot for Thursday; but if we're not really through Tuesday, we're probably shooting for Friday, in order to give them 1 day to pull this thing together, type up perfect copies so we can sign them, et cetera. And then Mr. Garlington is going to take care of us, on either Thursday or Friday, with a closing ceremony that shouldn't take all day, but it'll either take all morning or it'll take all afternoon—or, you know, till 3 or 4 o'clock—and we'll be all through. Now, that's how I see it, but that's assuming you only talk 1 day on General Government and that you don't debate the ballot for 6 days.

VICE PRESIDENT TOOLE: Mr. Schiltz.

DELEGATE SCHILTZ: Mr. President, I have a dual purpose here. One, I'd like to say that I would like to ask the President if Style and Drafting, which is going to meet at 8 o'clock tomorrow morning—that's one of the purposes—will you please point out that we don't get any of that $5,007 that the committee members—

Mr. President.

DELEGATE GRAYBILL: You mean that isn't—you mean you've given that money back to the staff? (Laughter) Right; that's for salaries for the staff, and it's for salaries for the secretaries, and it's for all the other people. You do get paid the same stipend as the rest of us do for the time you put in. (Laughter)

VICE PRESIDENT TOOLE: Mr. Murray.

DELEGATE MURRAY: Mr. Vice President, I move that the Convention adopt the President's budget report.

VICE PRESIDENT TOOLE: You've heard the motion that the budget be adopted. All in favor, say Aye.

DELEGATES: Aye.

VICE PRESIDENT TOOLE: Opposed, No.

(No response)

VICE PRESIDENT TOOLE: Motion is carried.

(President Graybill assumes the Chair)

PRESIDENT GRAYBILL: Very well. Members of the Committee, may we be on Order of Business Number 11. On Order of Business Number 11, I'd like to remind the Voter Education Committee that we want to have a meeting. Now, since we're this late, we'll make it very short, but let's have a short meeting in the—we'd better have it in the Rules Committee room here—the Rules Committee room—on adjournment. Secondly, I am asked to call on Mr. McCarvel. Do you want to make a motion, or is Mr. McNeil up for the same purpose?

Mr. McNeil.

DELEGATE McNEIL: Mr. Chairman, I rise for a point of personal privilege on behalf of those of us who have sufficient Irish heritage to be able to celebrate this day with a clear conscience. For the record, I ask that St. Patrick forgive my good friend, Marshall Murray, for wearing a sacrilegious pink shirt while he's presiding over this body on this very special day. (Laughter)

PRESIDENT GRAYBILL: Very well, we'll note that.

Mr. McCarvel, do you want to make resolution Number 16?

DELEGATE McCARVEL: Yes, Mr. Chairman, if you would read—if you will, please.

PRESIDENT GRAYBILL: Would you like it read? Will the clerk read resolution Number 16.

CLERK HANSON: "Resolution Number 16, on the 17th. We, the undersigned, declare, on this 17th day of March, 1972, that Row 6 on the left side of Convention Hall, seats numbered 65 through 70, be known as "Irish Row", with a little Scotch. Signed: Joseph McCarvel, Number 65—"

PRESIDENT GRAYBILL: Mason O'Melvin—can't you read? (Laughter)

CLERK HANSON: I certainly can't. (Laughter) "Mike McKeon, Number 66; C. B. McNeil, Number 60—" No—"McDonough, Number 66; Mike McKeon, Number 67; C. B. McNeil, Number 68; Mason O'Melvin, Number 69; and Lyle Monroe, Number 70." Mr. Chairman.

PRESIDENT GRAYBILL: Well, I'd refer that to the Rules Committee, but you've just destroyed your credibility with the Rules Committee, and I think you're in trouble, Mr. McNeil. (Laughter)

DELEGATE McNEIL: Mr. Chairman, although that resolution states that the row is on the left, I would like the record to reflect that my good friend, Mason Melvin, has the incongruity of having the extreme left on his right and the extreme right on his left. (Laughter)

PRESIDENT GRAYBILL: And all the good sense in the middle, Mr. Melvin. (Laughter-Applause) Are there other important announcements before we adjourn?

Mr. Champoux.

DELEGATE CHAMPOUX: You know, I couldn't let this go before letting you all know that last night in President Nixon's address, he totally agreed with the Educational Committee of the Montana Constitutional Convention and what you people passed, when he proposed that the Congress set up an Equal Educational Opportunities Act, requiring that—and I'm quoting—"every state and locality must grant equal educational opportunity to every person, regardless of race, color or national origin". I'm sure he got his message from us. Thank you. (Laughter)

PRESIDENT GRAYBILL: Very well. Mr. Murray, I wonder if you'd make a motion to adjourn.

DELEGATE MURRAY: Mr. President, I move that the Convention adjourn until 9:00 a.m. March 18th, 1972.

PRESIDENT GRAYBILL: Now, the—before you vote on that, the State Auditor's office will be open until 6 o'clock. You've got 15 minutes. All in favor of adjourning, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No. (No response)

(The Convention adjourned at 5:45 p.m.)

March 18, 1972
9:10 a.m.

Forty-Ninth Day

Convention Hall
Helena, Montana

PRESIDENT GRAYBILL: The Convention will be in order. If you'll all rise, Mr. Arbanas will lead us in the invocation this morning.

DELEGATE ARBANAS: Let us join together in the prayer of St. Francis. Lord, make me an instrument of Your peace. Where there's hatred, let me sow love. Where there's injury, pardon; where there is doubt, faith; where there is despair, hope; where there is darkness, light; where there is sadness, joy. O Divine Master, grant that I may not so much seek to be consoled as to console, to be understood as to understand, to be loved as to love, for it is in giving that we receive; it is in pardoning that we are pardoned; and it is in dying that we are born to eternal life. Amen.

PRESIDENT GRAYBILL: We'll take attendance today by voting Aye on the voting machines.

CLERK HANSON: Mr. President, may Delegates Delaney and Felt be excused this day?

PRESIDENT GRAYBILL: Delaney and Felt are excused.

CLERK HANSON: Delegate Hanson, Rod; Delegate Holland; Delegate Mahoney; Delegate Pemberton; Delegate Holland; Delegate Pemberton.

PRESIDENT GRAYBILL: Very well, take the attendance.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye

Nutting	Aye
Payne	Aye
Pemberton	Absent
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 96 delegates present, 2 excused, and 2 absent.

PRESIDENT GRAYBILL: Very well, that's a quorum. Order of Business Number 1, Reports of Standing Committees.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number 2, Select Committees.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number 3, Communications.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number 4, Introduction and Reference.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number 5. Ladies and gentlemen, under Order of Business Number 5 this morning, we have the Bill of Rights proposal, which we'll take up at this time. We will have placed upon your desks, we hope before the end of the session this morning, the Education and Public Health Articles for final adoption. And before I begin on the Bill of Rights section, Mr. Dahood has asked to be recognized.

Mr. Dahood.

DELEGATE DAHOOD: Mr. Chairman, I rise to a point of personal privilege and also on behalf of the Bill of Rights Committee. Yesterday morning, throughout several of the newspapers of the State of Montana, including the newspaper from my own area, the front page headlines carried stories that Con Con threatens no-fault insurance. A press release was issued yesterday. Unfortunately, we have not been given equal position with respect to that. So that the delegates may be fully informed, I wish to read from the release that was made yesterday in response to it: "It is totally beyond legal logic for anyone to contend that the Bill of Rights proposal has an effect on the no-fault insurance concept. There is absolutely no way that such a conclusion can be reached by a fair, sound-thinking person. The present attack on that section of the Bill of Rights which only restores to an injured workingman, in certain situations, his right to full legal redress is unfair, unjust, and, in many respects, dishonest. For a number of weeks, this section of the Bill of Rights was discussed, debated and circulated. Not a single critic of the section was able to seriously contend that this section prohibited the Legislature from considering no-fault insurance in the future." This section was fully debated by the Convention and, before that, at a public committee hearing after proper notice was posted. We indicated in our comments, we indicated in debate on the floor, the journal will reflect, the committee hearing records will show that we answered the several questions with respect to it to the effect that no-fault was not involved in any way. On behalf of the committee, I am going to add to the comments in the Bill of Rights proposal, so that there can never be any question about it under any circumstance nor by anyone, the following: "Further, it is the intent of the committee that the additional wording shall not be construed to preclude the adoption of a no-fault insurance plan for the State of Montana." Thank you for the privilege, Mr. Chairman.

PRESIDENT GRAYBILL: Very well. Will the clerk please read Order of Business Number 5, the Bill of Rights, Number 8. Now, that's this uncovered Order of Business Number 5 report on the Bill of Rights, which you should have before you, which we will use in finally adopting the Bill of Rights Article. Does everyone have it?

(No response)

PRESIDENT GRAYBILL: Very well. Mr. Clerk, will you read the title and the preamble.

CLERK HANSON: "Order of Business Number 5, Final Consideration, Style and Drafting, Bill of Rights, Number 8. Preamble." Mr. President.

PRESIDENT GRAYBILL: Very well, you have before you the preamble of the Bill of Rights Article, Number 8, on Order of Business Number 5. All in favor, vote Aye; and opposed, vote No on the voting machines. We're on Final Adoption, and we take a roll call vote on each article—or each section. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Absent
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Absent
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Absent
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Absent
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Absent
Rollins	Nay
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye

Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye

PRESIDENT GRAYBILL: Will the clerk please announce the vote.

CLERK HANSON: Mr. President, 91 delegates voting Aye, 1 voting No.

PRESIDENT GRAYBILL: Very well. Read the title of the article and Section 1.

CLERK HANSON: "Declaration of Rights. Section 1. Popular sovereignty." Mr. President.

PRESIDENT GRAYBILL: So many as are in favor of Section 1, vote Aye on the voting machines; so many as are opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Cast the ballot. Everyone is present except those excused and Holland and Pemberton.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye

Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Absent
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 96 delegates voting Aye, no delegates voting No.

PRESIDENT GRAYBILL: Section 1 is adopted. Section 2.

CLERK HANSON: "Section 2. Self-government." Mr. President.

PRESIDENT GRAYBILL: All those in favor of Section 2, on self-government, please vote Aye on the voting machines; opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Absent
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye

Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Absent
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 94 delegates voting Aye, no delegates voting No.

PRESIDENT GRAYBILL: Section 2 is therefore adopted. Section 3. All those delegates—

DELEGATE JOHNSON: Delegate Johnson. I voted Aye on the last one.

PRESIDENT GRAYBILL: Johnson wants to be shown as voting Aye on the last one. Very well.

DELEGATE JOHNSON: (Inaudible)

PRESIDENT GRAYBILL: So many as are in favor of Section 3, Inalienable rights, please vote Aye on the voting machine; opposed vote No. Have all the delegates voted?

(No response)

PRESIDENT GRAYBILL: Any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, we'll close the vote and take the ballot. Mr. Holland, the journal may show your presence.

Aasheim	Absent
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Nay
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye

Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Absent
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Absent
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Nay
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Absent
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 91 delegates voting Aye, 2 voting No.

PRESIDENT GRAYBILL: Very well, Section 4 is adopted. Section 5.

Mr. Clerk.

CLERK HANSON: That's section—

PRESIDENT GRAYBILL: Oh, right; right. Section 4, pardon me.

CLERK HANSON: "Section 4. Individual dignity." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 4, please vote Aye on the voting machines; so many as opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Absent
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye

Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Absent
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 95 delegates voting Aye, no delegates voting No.

PRESIDENT GRAYBILL: Very well, Section 4 is adopted. Section 5.

CLERK HANSON: "Section 5. Freedom of religion." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 5, vote Aye on the voting machines; so many as opposed, vote No. Any delegate hasn't voted?

(No response)

PRESIDENT GRAYBILL: Any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye

Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Absent
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 96 delegates voting Aye, and no delegates voting No.

PRESIDENT GRAYBILL: Very well, Section 5 is adopted. Section 6.

CLERK HANSON: "Section 6. Freedom of assembly." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 6, Freedom of assembly, vote Aye; and opposed, No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye

Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Absent
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Absent
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 95 delegates voting Aye, no delegates voting No.

PRESIDENT GRAYBILL: Very well, Section 6 is adopted. Section 7.

CLERK HANSON: "Section 7. Freedom of speech, expression, and press." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 7, vote Aye; and opposed, vote No. All the delegates voted?

(No response)

PRESIDENT GRAYBILL: Any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Mrs. Babcock?

DELEGATE BABCOCK: Babcock votes Aye.

PRESIDENT GRAYBILL: Babcock votes Aye.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye

Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Absent
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Absent
Rebal	Aye
Reichert	Aye
Robinson	Absent
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Nay
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Absent
Woodmansey	Aye

CLERK HANSON: Mr. President, Babcock voting Aye; 93 delegates voting Aye; 1 voting No.

PRESIDENT GRAYBILL: Very well, Section 7 is adopted. Section 8.

CLERK HANSON: "Section 8. Right of participation." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 8, vote Aye; and so many as shall be opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, take the ballot. Mr. McCarvel—McCarvel votes Aye.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Absent
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Nay
Brazier	Nay
Brown	Nay
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Nay
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Nay
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Nay
Habedank	Nay
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Nay
Joyce	Nay
Kamhoot	Nay
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Nay
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Absent
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Nay
Rollins	Nay
Romney	Aye
Rygg	Nay
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Nay
Sullivan	Aye
Swanberg	Nay
Toole	Nay
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Nay
Warden	Aye
Wilson	Nay
Woodmansey	Aye

CLERK HANSON: Mr. President, 76 delegates voting Aye, 19 voting No.

PRESIDENT GRAYBILL: Mrs. Speer.

DELEGATE SPEER: I punched the button, but it did not record. I vote Aye.

PRESIDENT GRAYBILL: Speer votes Aye; make it 77 to 19.

CLERK HANSON: 77 voting Aye, 19 voting No.

PRESIDENT GRAYBILL: Very well, Section 8 is adopted. Section 9.

CLERK HANSON: "Section 9. Right to know." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 9, vote Aye; so many as are opposed, vote No. Have all the delegates voted?

(No response)

Any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, take the ballot.

Aasheim	Nay
Anderson, J.	Nay
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Nay
Babcock	Nay
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Nay
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Nay
Delaney	Excused
Driscoll	Nay
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Nay
Habedank	Nay
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Nay
Jacobsen	Aye
James	Aye
Johnson	Nay
Joyce	Nay
Kamhoot	Nay
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Nay
Mansfield	Aye
Martin	Nay
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Nay
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Absent
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Nay
Schiltz	Aye
Siderius	Aye
Simon	Nay
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Nay
Sullivan	Aye

Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Nay
Ward	Nay
Warden	Nay
Wilson	Nay
Woodmansey	Aye

CLERK HANSON: Mr. President, 74 delegates voting Aye, 23 voting No.

PRESIDENT GRAYBILL: Very well, Section 9 is adopted. Section 10.

CLERK HANSON: "Section 10. Right of privacy." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 10, vote Aye on the voting machines; and opposed, No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Nay
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Nay
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Absent
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye

Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Nay
Woodmansey	Aye

CLERK HANSON: Mr. President, 94 delegates voting Aye, 3 voting No.

PRESIDENT GRAYBILL: Very well, Section 10 is adopted. Section 11.

CLERK HANSON: "Section 11. Searches and seizures." Mr. Chairman.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 11, vote Aye; and opposed, No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Absent
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Nay
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye

Pemberton	Absent
Rebal	Aye
Reichert	Aye
Robinson	Nay
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 93 delegates voting Aye, 2 voting No.

PRESIDENT GRAYBILL: Very well, Section 11 is adopted. Section—

DELEGATE KELLEHER: Mr. Chairman.

PRESIDENT GRAYBILL: Mr. Kelleher.

DELEGATE KELLEHER: I want it to show I voted Aye on that.

PRESIDENT GRAYBILL: Mr. Kelleher wants to be shown as Aye on Section 11; 94 to 2. All right. Section 12.

CLERK HANSON: "Section 12. Right to bear arms." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 12, vote Aye on the voting machines; opposed, No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Nay
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Nay
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Nay
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Absent
Heliker	Aye
Holland	Nay
Jacobsen	Aye
James	Aye

Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Nay
Leuthold	Aye
Loendorf	Aye
Lorello	Nay
Mahoney	Nay
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Absent
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Nay
Warden	Nay
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 87 delegates voting Aye, 9 voting No.

PRESIDENT GRAYBILL: Very well, Section 12 is adopted. Section 13.

CLERK HANSON: "Section 13. Right of suffrage." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 13, vote Aye; opposed, No on the voting machine. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, take the ballot.

Aasheim	Absent
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye

Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Absent
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Absent
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 95 delegates voting Aye, no delegates voting No.

PRESIDENT GRAYBILL: Very well, Section 13 is adopted. Section 14.

CLERK HANSON: "Section 14. Adult rights." Mr. President.

PRESIDENT GRAYBILL: All in favor of Section 14, vote Aye on the voting machines; opposed, No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Mrs. Pemberton, the journal may show your presence.

Aasheim	Aye
Anderson, J.	Nay
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Nay
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused

Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Nay
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Absent
Heliker	Aye
Holland	Nay
Jacobsen	Nay
James	Aye
Johnson	Nay
Joyce	Aye
Kamhoot	Nay
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Absent
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Nay
Sullivan	Aye
Swanberg	Nay
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Absent
Wilson	Nay
Woodmansey	Aye

CLERK HANSON: Mr. President, 85 delegates voting Aye, 10 voting No.

PRESIDENT GRAYBILL: Very well, Section 14 is adopted. Section 15.

CLERK HANSON: "Section 15. Rights of persons not adults." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 15, vote Aye; and opposed, No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Please cast the ballot.

Aasheim	Nay
Anderson, J.	Nay
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Nay
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Nay
Brazier	Nay
Brown	Nay
Bugbee	Aye
Burkhardt	Aye

Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Nay
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Absent
Heliker	Aye
Holland	Nay
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Nay
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Absent
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Nay
Sullivan	Aye
Swanberg	Nay
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Nay
Warden	Aye
Wilson	Nay
Woodmansey	Aye

CLERK HANSON: Mr. President, 83 delegates voting Aye, 13 voting No.

PRESIDENT GRAYBILL: Very well, Section 15 is adopted. Section 16.

CLERK HANSON: "Section 16. The administration of justice." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 16, vote Aye; so many as shall be opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Nay
Arbanas	Aye
Arness	Nay
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye

Bates	Aye
Belcher	Aye
Berg	Nay
Berthelson	Nay
Blaylock	Aye
Blend	Aye
Bowman	Nay
Brazier	Nay
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Nay
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Nay
Eskildsen	Nay
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Nay
Habedank	Nay
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Absent
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Nay
Joyce	Aye
Kamhoot	Nay
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Nay
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Nay
Payne	Aye
Pemberton	Aye
Rebal	Nay
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Nay
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Nay
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Nay
Warden	Aye
Wilson	Nay
Woodmansey	Nay

CLERK HANSON: Mr. President, 76 delegates voting Aye, 21 voting No.

PRESIDENT GRAYBILL: Very well, Section 16 is adopted. Section 17.

CLERK HANSON: "Section 17. Due process of law." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 17, vote Aye; so many as shall be opposed, vote No. Any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye

Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 98 delegates voting Aye, no delegates voting No.

PRESIDENT GRAYBILL: Very well, Section 17 is adopted. Section 18.

CLERK HANSON: "Section 18. State subject to suit."

PRESIDENT GRAYBILL: So many as shall be in favor of Section 18, vote Aye; so many as are opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Nay
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Absent
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Nay
Joyce	Aye
Kamhoot	Nay
Kelleher	Aye
Leuthold	Nay
Loendorf	Aye
Lorello	Aye
Mahoney	Nay
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Nay
Payne	Aye
Pemberton	Nay
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Nay
Rygg	Nay
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Nay
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Nay
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Nay
Warden	Aye
Wilson	Nay
Woodmansey	Aye

CLERK HANSON: Mr. President, 84 delegates voting Aye, 13 voting No.

PRESIDENT GRAYBILL: Very well,

Section 18 is passed. Section 19.

CLERK HANSON: "Section 19. Habeas corpus." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 19, vote Aye; opposed, No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Absent
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye

Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 97 delegates voting Aye, no delegates voting No.

PRESIDENT GRAYBILL: Mr. Johnson.

DELEGATE JOHNSON: Mr. President, I'm absolutely appalled. I didn't see your Yes vote up there for Habeas Corpus. (Laughter)

PRESIDENT GRAYBILL: I wasn't sure what it meant, Mr. Johnson. (Laughter) Very well, Section 20.

CLERK HANSON: "Section 20. Initiation of proceedings." Mr. Chairman.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 20, vote Aye on the voting machines. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye

Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Nay
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 97 delegates voting Aye, 1 voting No.

PRESIDENT GRAYBILL: Very well, Section 20 is adopted. Section 21.

CLERK HANSON: "Section 21. Bail." Mr. President.

PRESIDENT GRAYBILL: As many as shall be in favor of Section 21, vote Aye; opposed, No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate want to change his vote?

(No response)

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Absent
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Nay
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye

Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Absent
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 94 delegates voting Aye, 1 voting No.

PRESIDENT GRAYBILL: Mr. Studer.

DELEGATE STUDER: (Inaudible)

PRESIDENT GRAYBILL: Mr. Studer wishes to be recorded as voting Aye; is that right? Aye on 90—on 21, make it 95.

CLERK HANSON: 95 voting Aye, 1 voting No.

PRESIDENT GRAYBILL: Very well, Section 21 passes. Section 22.

CLERK HANSON: "Section 22. Excessive sanctions." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 22, vote Aye; opposed, No. Every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Mr. Jacobsen.

DELEGATE JACOBSEN: Mr. President, I voted—I wanted to vote Aye. I was sleeping.

PRESIDENT GRAYBILL: Mr. Jacobsen wishes to be recorded as voting Aye.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye

Harbaugh	Aye
Harlow	Absent
Harper	Aye
Harrington	Absent
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Absent
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, Jacobsen voting Aye; 95 delegates voting Aye; no delegates voting No.

PRESIDENT GRAYBILL: Section 23 has been adopted. Section 23.

CLERK HANSON: "Section 23. Detention." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 23, vote Aye; opposed, No. Any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Absent
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye

Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Nay
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Nay
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 95 delegates voting Aye, 2 voting No.

PRESIDENT GRAYBILL: Very well, 23 is adopted. 24.

CLERK HANSON: "Section 24. Rights of the accused." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 24, vote Aye; opposed, No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Absent
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye

Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 97 delegates voting Aye, no delegates voting No.

PRESIDENT GRAYBILL: Very well, Section 24 is adopted. Section 25.

CLERK HANSON: "Section 25. Self-incrimination and double jeopardy." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 25, vote Aye; opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye

Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Absent
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Absent
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Nay
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 95 delegates voting Aye, 1 voting No.

PRESIDENT GRAYBILL: Very well, Section 25 is adopted. Section 26.

CLERK HANSON: "Section 26. Trial by jury." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 26, vote Aye; opposed, No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot on Number 26.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Nay
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye

Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Absent
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Nay
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Nay
Joyce	Aye
Kamhoot	Nay
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 93 delegates voting Aye, 4 voting No.

PRESIDENT GRAYBILL: Very well, Section 26 is adopted. Section 27.

CLERK HANSON: "Section 27. Imprisonment for debt." Mr. President.

PRESIDENT GRAYBILL: As many as shall be in favor of Section 27, say Aye—vote Aye; opposed, No. Every delegate voted?

(No response)

PRESIDENT GRAYBILL: Any delegate want to change?

(No response)

PRESIDENT GRAYBILL: Very well, take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Absent
Belcher	Nay
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Absent
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Nay
Champoux	Absent
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Nay
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Nay
Jacobsen	Nay
James	Aye
Johnson	Aye
Joyce	Nay
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Nay
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Nay
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Nay
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 86 delegates voting Aye, 9 voting No.

PRESIDENT GRAYBILL: Very well, Section 27 is adopted. Section 28.

CLERK HANSON: "Section 28. Rights of the convicted." Mr. President.

PRESIDENT GRAYBILL: So many as

shall be in favor of Section 28, vote Aye; and opposed, No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Nay
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Nay
Joyce	Aye
Kamhoot	Nay
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Nay
Sullivan	Aye
Swanberg	Aye
Toole	Absent
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Nay
Warden	Absent
Wilson	Nay
Woodmansey	Aye

CLERK HANSON: Mr. President, 90 delegates voting Aye, 6 voting No.

PRESIDENT GRAYBILL: Section 28 is adopted. Section 29.

CLERK HANSON: "Section 29. Eminent domain." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 29, vote Aye; opposed, No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Nay
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Nay
Berthelson	Nay
Blaylock	Aye
Blend	Aye
Bowman	Nay
Brazier	Nay
Brown	Nay
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Nay
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Nay
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Nay
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Nay
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Nay
Payne	Nay
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye

Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 85 delegates voting Aye, 12 voting No.

PRESIDENT GRAYBILL: Section 29 is adopted. Section 30.

CLERK HANSON: "Section 30. Treason and descent of estates." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 30, vote Aye; opposed, No. Have all the delegates voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye

Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 98 delegates voting Aye, no delegates voting No.

PRESIDENT GRAYBILL: Very well, 30 is adopted. Section 31.

CLERK HANSON: "Section 31. Ex post facto, obligation of contracts, and irrevocable privileges." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 31, vote Aye; and opposed, vote No. Have all the delegates voted?

(No response)

PRESIDENT GRAYBILL: Any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Nay
Berg	Nay
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Absent
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye

Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 95 delegates voting Aye, 2 voting No.

PRESIDENT GRAYBILL: Section 31 is adopted. Section 32.

CLERK HANSON: "Section 32. Civilian control of the military." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor, vote Aye; and opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Nay
Brazier	Aye
Brown	Nay
Bugbee	Nay
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Absent
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye

Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 94 delegates voting Aye, 3 voting No.

PRESIDENT GRAYBILL: Very well, Section 32 is adopted. Section 33.

CLERK HANSON: "Section 33. Importation of armed persons." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 33, vote Aye; and opposed, vote No. Have all the delegates voted?

(No response)

PRESIDENT GRAYBILL: Anybody want to change their vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Nay
Anderson, J.	Aye
Anderson, O.	Nay
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye

Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 96 delegates voting Aye, 2 voting No.

PRESIDENT GRAYBILL: Very well, Section 33 is adopted. Section 34.

CLERK HANSON: "Section 34. Unenumerated rights." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 34, vote Aye; and opposed, vote No. Have all the delegates voted?

(No response)

PRESIDENT GRAYBILL: Any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Close the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye

Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 98 delegates voting Aye, no delegates voting No.

PRESIDENT GRAYBILL: Section 34 is adopted. Section 35.

CLERK HANSON: "Section 35."

PRESIDENT GRAYBILL: Servicemen—

CLERK HANSON: "—Servicemen, servicewomen, and veterans." Mr. President.

PRESIDENT GRAYBILL: So many as are in favor of Section 35, vote Aye; and opposed, vote No. Have all the delegates voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Nay
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Nay
Berthelson	Aye
Blaylock	Nay
Blend	Aye
Bowman	Nay
Brazier	Nay
Brown	Nay
Bugbee	Nay
Burkhardt	Nay
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye

Cross	Nay
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Nay
Joyce	Aye
Kamhoot	Aye
Kelleher	Nay
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Nay
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Absent
Rollins	Nay
Romney	Aye
Rygg	Aye
Scanlin	Nay
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Nay
Sparks	Nay
Speer	Aye
Studer	Nay
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Nay
Ward	Nay
Warden	Aye
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 78 delegates voting Aye, 19 voting No.

PRESIDENT GRAYBILL: 78 delegates voting Aye and 19 voting No, Section 35 is adopted. Ladies and gentlemen, you've adopted all of the Bill of Rights. Now, we're having placed on your desks the Education section, Order of Business Number 5, on Report Number 10, Education. We will take it now. I will go somewhat slower, since you haven't had it before you, but we need to finish up these this morning, if possible. So Section 10—or, I mean, report 10 on Education is now being passed out to you. While you're all looking at it, the Chair will call your attention to one style error. On the—line 5, after "Educational goals and duties", you should insert a "1" in parentheses. In other words, that's a three-section subsection—three subsections of Section 1; Number one did not get numbered. Put in a subsection 1 in parentheses, after the word "duties". I take it that's okay, Mr. Champoux?

DELEGATE CHAMPOUX: (Inaudible)

PRESIDENT GRAYBILL: Ladies and gentlemen, while we have a short break here, we'll let the pages put out Number 9 on Public Health, too. The pages will distribute it now, too. Very well, we're ready to go on Education. Will the clerk please read the title and Section 1 of the Education Article for final adoption.

CLERK HANSON: "Order of Business Number 5, Final Consideration, Style and Drafting, Education, Report Number 10. Article. Education. Section 1. Educational goals and duties."; containing three subsections. Mr. President.

PRESIDENT GRAYBILL: Very well, we're voting on Section 1, Educational goals and duties, containing three subsections. So many as be in favor, vote Aye on the voting machines; and opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, cast the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Absent
Blend	Aye
Bowman	Aye
Brazier	Nay
Brown	Absent
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Nay
Eskildsen	Nay
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Nay
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Absent
James	Aye
Johnson	Aye
Joyce	Nay
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Absent
Sullivan	Aye
Swanberg	Aye
Toole	Aye

Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 88 delegates voting Aye, 5 voting No.

PRESIDENT GRAYBILL: Very well, Section 1 is adopted. Will the clerk read the title of Section 2.

CLERK HANSON: "Section 2. Public school funds"; containing no subsections. Mr. President.

PRESIDENT GRAYBILL: Well, he's technically right; that's an enumeration, it's not a subsection, but it is everything on page 1 and the first seven lines of page 2. Very well, everyone that's in favor of Section 2, Public school fund, vote Aye on the voting machine; opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Absent
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye

Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Absent
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 95 delegates voting Aye, no delegates voting No.

PRESIDENT GRAYBILL: Very well, Section 2 is adopted. Section 3.

CLERK HANSON: "Section 3. Public school fund inviolate." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 3, vote Aye; opposed, No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Mrs. Cross, for what purpose do you rise?

DELEGATE CROSS: Mr. Chairman, I neglected to push the Aye button on time, but that is how I vote.

PRESIDENT GRAYBILL: All right, Mrs. Cross votes Aye.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Absent
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Absent
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye

Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Nay
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mrs. Cross votes Aye; 94 delegates voting Aye, 1 voting No.

PRESIDENT GRAYBILL: Very well. Section 3 is adopted. Section 4.

CLERK HANSON: "Section 4. Board of Land Commissioners." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 4. vote Aye; and so many as shall be opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Have all the delegates finished changing their votes? (Laughter)

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Nay
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Nay
Arness	Aye
Aronow	Nay
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Absent
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Nay
Cate	Nay
Champoux	Nay
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Nay
Delaney	Excused
Driscoll	Nay
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Nay
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye

Graybill	Nay
Gysler	Nay
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Nay
Harper	Nay
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Absent
James	Aye
Johnson	Aye
Joyce	Nay
Kamhoot	Aye
Kelleher	Nay
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Nay
Mansfield	Nay
Martin	Nay
McCarvel	Aye
McDonough	Nay
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Nay
Noble	Aye
Nutting	Aye
Payne	Nay
Pemberton	Nay
Rebal	Nay
Reichert	Nay
Robinson	Nay
Roeder	Nay
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Nay
Schiltz	Aye
Siderius	Nay
Simon	Aye
Skari	Nay
Sparks	Nay
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Nay
Ward	Nay
Warden	Nay
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 62 delegates voting Aye, 33 voting No.

PRESIDENT GRAYBILL: Very well, Section 4 is adopted. Section 5.

CLERK HANSON: "Section 5. Public school fund revenue." Mr. President, two subsections.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 5 and its subsections, vote Aye; opposed, No. Have all the delegates voted?

(No response)

PRESIDENT GRAYBILL: Any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Cast the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye

Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Absent
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 96 delegates voting Aye and no delegates voting No.

PRESIDENT GRAYBILL: Very well, Section 5 is adopted. Section 6.

CLERK HANSON: "Section 6. Aid prohibited to sectarian schools"; containing two subsections. Mr. President.

PRESIDENT GRAYBILL: So many shall be in favor of Section 6 and its subsections, vote Aye; opposed, No.

DELEGATE McNEIL: Mr. Chairman.

PRESIDENT GRAYBILL: Mr. McNeil.

DELEGATE McNEIL: I rise to explain my vote.

PRESIDENT GRAYBILL: Very well.

DELEGATE McNEIL: I am in favor of subsection 1; I oppose subsection 2, which permits tax money to be sent for church schools. I therefore must vote against the entire section.

PRESIDENT GRAYBILL: Very well. Mr. Kelleher.

DELEGATE KELLEHER: I want to explain my vote. It's exactly the opposite of Mr. McNeil's. (Laughter)

PRESIDENT GRAYBILL: Has every delegate voted?
(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?
(No response)

PRESIDENT GRAYBILL: Very well, cast the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Nay
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Nay
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Nay
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Nay
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Nay
Etchart	Aye
Felt	Excused
Foster	Nay
Furlong	Nay
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Nay
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Nay
Joyce	Aye
Kamhoot	Aye
Kelleher	Nay
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Nay
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Nay
Melvin	Aye
Monroe	Nay
Murray	Nay
Noble	Aye
Nutting	Nay
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Nay
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Nay
Woodmansey	Aye

CLERK HANSON: Mr. President, 80 delegates voting Aye, 17 voting No.

PRESIDENT GRAYBILL: Very well, Section 6 is adopted. Section 7.

CLERK HANSON: "Section 7. Nondiscrimination in education." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 7, vote Aye; opposed, vote No.

Mr. McNeil.

DELEGATE McNEIL: Mr. Chairman, I rise to explain my vote. I support all of Section 7 except the change of the word from "teach" to "advocate", which now permits the teaching of religion in the public schools. I therefore oppose the section.

PRESIDENT GRAYBILL: Has every delegate voted?

Mr. Anderson.

DELEGATE O. ANDERSON: I rise to explain my vote, because I do not like the change from "taught" to "advocate".

PRESIDENT GRAYBILL: Any other delegate want to change their vote?

(No response)

PRESIDENT GRAYBILL: Very well, take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Nay
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Nay
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Nay
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Nay
Eskildsen	Nay
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Nay
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Nay
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Nay
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye

Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Nay
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 89 delegates voting Aye, 9 voting No.

PRESIDENT GRAYBILL: Very well, Section 7 is adopted. Section 8.

CLERK HANSON: "Section 8. School district trustees." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 8, vote Aye; and so many as shall be opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Nay
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Absent
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye

Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 96 delegates voting Aye, 1 voting No.

PRESIDENT GRAYBILL: Very well, Section 8 is adopted. Section 9.

CLERK HANSON: "Section 9. Boards of Education"; containing three subsections. Mr. President.

PRESIDENT GRAYBILL: So many shall be in favor of Section 9 and all three subsections, vote Aye; so many shall be opposed, vote No. Have all the delegates voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Nay
Anderson, J.	Nay
Anderson, O.	Nay
Arbanas	Aye
Arness	Nay
Aronow	Nay
Artz	Nay
Ask	Nay
Babcock	Nay
Barnard	Nay
Bates	Nay
Belcher	Nay
Berg	Aye
Berthelson	Nay
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Nay
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Nay
Drum	Aye
Eck	Aye
Erdmann	Nay
Eskildsen	Nay
Etchart	Nay
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Nay
Habedank	Aye
Hanson, R.S.	Nay
Hanson, R.	Nay
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Nay
Joyce	Nay
Kamhoot	Nay
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye

Mahoney	Nay
Mansfield	Nay
Martin	Nay
McCarvel	Aye
McDonough	Nay
McKeon	Aye
McNeil	Nay
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Nay
Payne	Aye
Pemberton	Aye
Rebal	Nay
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Nay
Rygg	Nay
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Nay
Sullivan	Nay
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Nay
Ward	Nay
Warden	Nay
Wilson	Nay
Woodmansey	Aye

CLERK HANSON: Mr. President, 60 delegates voting Aye, 38 voting No.

PRESIDENT GRAYBILL: 60 voting Aye, 38 voting No, Section 9 is adopted. Section 10.

CLERK HANSON: "Section 10. State University funds." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 10, which you'll find on page 5, vote Aye on the voting machines; opposed, No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Nay
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Nay
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Nay
Drum	Absent
Eck	Aye
Erdmann	Aye
Eskildsen	Nay
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Nay
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye

Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Absent
Lorello	Aye
Mahoney	Nay
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Nay
Woodmansey	Aye

CLERK HANSON: Mr. President, 88 delegates voting Aye, 7 voting No.

PRESIDENT GRAYBILL: Very well, Section 10 is adopted. If you'll turn the page to an unnumbered page, you'll find the article on Public Lands. Will the clerk read the title and section number.

CLERK HANSON: "Order of Business Number 5, Final Consideration, Style and Drafting, Public Lands, Report Number 10. Article. Public Lands. Section 1. Public land trust—disposition"; containing four subsections. Mr. President.

PRESIDENT GRAYBILL: So many shall be in favor of Section 1 and all its subsections, vote Aye; opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, cast the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye

Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 97 delegates voting Aye, no delegates voting No.

PRESIDENT GRAYBILL: Very well. You have adopted the Public Lands Article, and we're finished with the articles on Education and Public Lands. If you'll take the sheet—the Public Health, Welfare, Labor and Industry Article that's placed before you this morning, we'll take final adoption of Public Health, Welfare, Labor and Industries Article. Is there anyone who doesn't have the article?

(No response)

PRESIDENT GRAYBILL: Very well, will the clerk read the title and the first section of article on nonmunicipal corporations.

CLERK HANSON: "Order of Business Number 5, Final Consideration, Style and Drafting, Public Health, Welfare, Labor and Industry, Number 9. Article. Nonmunicipal corporations. Section 1. Limitation of powers." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 1, Limitation of power, of the Nonmunicipal Corporations Article, Public Health, Report Number 9, please vote Aye on the voting machines; opposed, No. Has every delegate voted?

DELEGATE BABCOCK: I don't have that sheet—could I—could you wait a minute till I get it?

PRESIDENT GRAYBILL: Yes, let's get Mrs. Babcock one of these. Are there some extras down front?

DELEGATE BABCOCK: I got it—I got it.

PRESIDENT GRAYBILL: Very well, the ballot is not closed, Mrs. Babcock. We're on Section 1, Nonmunicipal Corporations. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Nay
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Absent
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Nay
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Nay
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 93 delegates voting Aye, 3 voting No.

PRESIDENT GRAYBILL: Very well,

Section 1 is adopted. Section 2.

CLERK HANSON: "Section 2. Protection for citizenry." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 2, vote Aye on the voting machines; so many as opposed, vote No. Have all the delegates voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, cast the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Nay
Brown	Nay
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Nay
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Absent
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Nay
Joyce	Nay
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Absent
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Nay
Toole	Absent
Van Buskirk	Aye

Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 88 delegates voting Aye, 6 voting No.

PRESIDENT GRAYBILL: 88 having voted Aye, Section 2 is adopted. Section 3.

CLERK HANSON: "Section 3. Retrospective law prohibition." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 3 vote Aye on the voting machines; and opposed, vote No. Have all the delegates voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, cast the ballot.

Aasheim	Nay
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Absent
Ask	Nay
Babcock	Nay
Barnard	Aye
Bates	Aye
Belcher	Nay
Berg	Nay
Berthelson	Nay
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Nay
Bugbee	Nay
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Nay
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Nay
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Nay
Habedank	Nay
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Nay
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Nay
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Nay
Reichert	Aye
Robinson	Aye
Roeder	Nay
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Nay

Schiltz	Absent
Siderius	Nay
Simon	Aye
Skari	Nay
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Nay
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Nay

CLERK HANSON: Mr. President, 74 delegates voting Aye, 21 voting No.

PRESIDENT GRAYBILL: Very well, Section 3 is adopted. If you'll turn to page 2, we'll take the article on Labor. Will the clerk read the title and the first section.

CLERK HANSON: "Order of Business Number 5, Final Consideration, Style and Drafting, Public Health, Welfare, Labor and Industry, Number 9. Article. Labor. Section 1. Department and commissioner." Mr. President.

PRESIDENT GRAYBILL: Very well, so many as shall be in favor of Section 1 of the Labor Article, vote Aye on the voting machine; so many as shall be opposed, vote No. Have all the delegates voted?

(No response)

PRESIDENT GRAYBILL: Any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Nay
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Nay
Brazier	Aye
Brown	Nay
Bugbee	Nay
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye

McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Nay
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Nay
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Absent
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 90 delegates voting Aye, 6 voting No.

PRESIDENT GRAYBILL: Very well, Section 1 is adopted. Section 2.

CLERK HANSON: "Section 2. Eight-hour day." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 2, vote Aye on the voting machine; so many as shall be opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, take the ballot.

Aasheim	Aye
Anderson, J.	Nay
Anderson, O.	Nay
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Nay
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Nay
Blaylock	Aye
Blend	Aye
Bowman	Nay
Brazier	Aye
Brown	Nay
Bugbee	Nay
Burkhardt	Aye
Cain	Aye
Campbell	Nay
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Nay
Delaney	Excused
Driscoll	Aye
Drum	Nay
Eck	Nay
Erdmann	Nay
Eskildsen	Nay
Etchart	Aye
Felt	Excused
Foster	Nay
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Nay
Hanson, R.S.	Nay
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Nay
James	Aye
Johnson	Aye

Joyce	Aye
Kamhoot	Nay
Kelleher	Aye
Leuthold	Aye
Loendorf	Nay
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Nay
Murray	Nay
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Nay
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Nay
Sullivan	Aye
Swanberg	Nay
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Nay
Woodmansey	Aye

CLERK HANSON: Mr. President, 72 delegates voting Aye, 25 voting No.

PRESIDENT GRAYBILL: Very well, Section 2 is adopted. If you'll turn to page 3, we'll do the article on Institutions and Assistance. Will the clerk please read the title and the first section of this article.

CLERK HANSON: "Order of Business Number 5, Final Consideration, Style and Drafting, Public Health, Welfare, Labor and Industry, Number 9. Article. Institutions and Assistance. Section 1. Institutions." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 1 of the article on Institutions and Assistance, on page 3, please vote Aye on the voting machines; opposed, No. Have all the delegates voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, close the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Nay
Brazier	Nay
Brown	Nay
Bugbee	Nay
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye

Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Nay
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Absent
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Absent
Siderius	Aye
Simon	Aye
Skari	Nay
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Nay
Toole	Absent
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 87 delegates voting Aye, 7 voting No.

PRESIDENT GRAYBILL: Very well, Section 1 is adopted. Section 2.

CLERK HANSON: "Section 2. Restoration of rights." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 2, vote Aye; so many as shall be opposed, vote No. Have all the delegates voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, we'll close the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye

Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Absent
Schiltz	Absent
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 95 delegates voting Aye, no delegates voting No.

PRESIDENT GRAYBILL: Very well, Section 2 has been adopted. Section 3.

CLERK HANSON: "Section 3. Assistance." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 3 of the Institutions and Assistance Article, vote Aye; so many as are opposed, vote No on the voting machines. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, cast the ballot.

Aasheim	Nay
Anderson, J.	Nay
Anderson, O.	Nay
Arbanas	Aye
Arness	Aye
Aronow	Nay
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye

Blaylock	Aye
Blend	Aye
Bowman	Nay
Brazier	Nay
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Nay
Etchart	Nay
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Nay
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Nay
James	Aye
Johnson	Nay
Joyce	Aye
Kamhoot	Nay
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Nay
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Nay
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Nay
Scanlin	Aye
Schiltz	Absent
Siderius	Aye
Simon	Nay
Skari	Aye
Sparks	Nay
Speer	Aye
Studer	Nay
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Nay
Woodmansey	Aye

CLERK HANSON: Mr. President, 77 delegates voting Aye, 19 voting No.

PRESIDENT GRAYBILL: Very well, Section 3 is adopted. If you'll turn to page 4, we'll do the article on Public Utilities. Will the clerk read the title of the report and the title of the article.

CLERK HANSON: "Order of Business Number 5, Final Consideration, Style and Drafting, Public Health, Welfare, Labor and Industry, Number 9. Article. Public Utilities, Consumer Council." Mr. President.

PRESIDENT GRAYBILL: Very well, so many as shall be in favor of the consumer council article—or section be—vote Aye on the voting machines; so many as are opposed, vote No.

Mr. Toole.

DELEGATE TOOLE: Mr. President, I rise to explain my vote; Rule 20.

PRESIDENT GRAYBILL: All right. Have all the delegates voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, cast the ballot.

Aasheim	Aye
Anderson, J.	Nay
Anderson, O.	Nay
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Nay
Babcock	Nay
Barnard	Aye
Bates	Aye
Belcher	Nay
Berg	Nay
Berthelson	Nay
Blaylock	Aye
Blend	Aye
Bowman	Nay
Brazier	Nay
Brown	Nay
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Nay
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Nay
Eskildsen	Aye
Etchart	Nay
Felt	Excused
Foster	Aye
Furlong	Aye
Garlington	Nay
Graybill	Aye
Gysler	Nay
Habedank	Aye
Hanson, R.S.	Nay
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Nay
James	Aye
Johnson	Nay
Joyce	Aye
Kamhoot	Nay
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Nay
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Nay
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Nay
Schiltz	Absent
Siderius	Aye
Simon	Nay
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Nay
Sullivan	Aye
Swanberg	Aye
Toole	Absent
Van Buskirk	Aye
Vermillion	Aye
Wagner	Nay
Ward	Nay
Warden	Nay
Wilson	Nay
Woodmansey	Aye

CLERK HANSON: Mr. President, 67 delegates voting Aye, 28 voting No.

PRESIDENT GRAYBILL: Very well,

that section is adopted. Ladies and gentlemen, we have now finally adopted Bill of Rights, Education and Public Lands, and the Public Health Articles. The Chair has referred them to Style and Drafting for inclusion in the final Constitution.

Mr. Eskildsen, I think we should be in 15 minutes' recess before we get ready to go on General Government. Will you so move?

DELEGATE ESKILDSEN: Mr. President, I move that we stand in recess until 15 minutes to 11:00 this day.

PRESIDENT GRAYBILL: All in favor, vote Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.
(No response)

PRESIDENT GRAYBILL: We're in recess.

(Convention recessed at 10:32 a.m.—reconvened at 11:09 a.m.)

PRESIDENT GRAYBILL: The Convention will be in order. The Convention will be in order. We have now completed the work we had for today on Order of Business Number 5. Order of Business Number 6, Adoption; none. Order of Business Number 7, Motions and Resolutions; I think there are none. Order of Business Number 8, Unfinished Business.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number 9, Special Orders.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number 10.
Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. President I move the Convention resolve itself into the Committee of the Whole for the purpose of handling business under General Orders.

PRESIDENT GRAYBILL: Very well, the motion is to resolve this Convention into a Committee of the Whole. All in favor, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.
(No response)

PRESIDENT GRAYBILL: So ordered.

(Committee of the Whole)

CHAIRMAN GRAYBILL: Mr. Clerk.

CLERK HANSON: "March 18th, 1972. The following committee proposal is now on General Orders: General Government." Mr. Chairman.

CHAIRMAN GRAYBILL: Very well, we'll proceed to the General Government Article on the Committee—in the Committee of the Whole this morning. That's the gray one, Number 12, on General Government, and you'll want to turn to page 3. Now, before we proceed, Mr. Etchart has some amendments to the committee report.
Mr. Etchart.

DELEGATE ETCHART: Mr. Chairman. I think you have the written amendments up there, but I'll—

CHAIRMAN GRAYBILL: Right. Do you want me to read them?

DELEGATE ETCHART: Yeah, if you would, please.

CHAIRMAN GRAYBILL: All right. The first is on Section 1, page 3, line 10 and line 13. Strike the word "departments" and insert therein "branches"; that's on line 10 and on line 13. In other words, on the first article—first section of the General Government Article, it should read, "The powers of the government of the state are divided into three distinct branches", instead of "departments". And then, on line 13, it says, "belongs to one of these branches", instead of "departments". The reason is to avoid confusion—the Executive Reorganization Act, which refers to 20 departments. The second amendment the committee wishes to make is to Section 4, on page 4, line 10. After the word "constitution", put in an asterisk, because we need to add a sentence, which can go at the top or bottom of the page. The sentence is: "The highway revenue provided for in Article blank, Section 6, shall nevertheless be subject to appropriation by initiative." Now, I'll say that slowly: "The highway revenue provided for in Article blank, Section 6, shall nevertheless be subject to appropriation by initiative." That goes on line 10, after the word "constitution"—an asterisk. Then on Section 4—the same Section 4, line 10, the last word is "eight". Strike the word "eight" and put "five". And on line 13, the same thing—strike the word "eight" and put "five". And then you go to Section 5, on line 25, and strike "eight" and put "five"; and on 27, strike "eight" and put "five". So there are four places; on line 10 you strike the word "eight" and put "five"; line 13 you strike the word "eight" and put "five"; line 25 and line 27, strike the word "eight" and put "five". Now Mr. Etchart, I think we've cleaned it up for you. Very well, will the clerk please read the title and Section 1 of the—

Mr. Etchart, do you wish an opening statement?

DELEGATE ETCHART: No.

CHAIRMAN GRAYBILL: All right. Will the clerk please read the title and Section 1 of the article on General Government.

CLERK HANSON: "Montana Constitutional Convention, 1971-1972. General Government and Constitutional Amendment Committee proposal on General Government, Number 12. Introduced February 19th, 1972; Mark Etchart, Chairman. Be it proposed by the General Government-Constitutional Amendment Committee that there be a new article on General Government to read as follows: 'Article. General Government. Section 1. Separation of powers. The powers of the government of this state are divided into three distinct branches, the Legislative, Executive and Judicial; and no person or collection of persons charged with the exercise of powers properly belonging to one of these branches shall exercise any power properly belonging to either of the others, except as in this Constitution expressly directed or permitted'." Mr. Chairman, Section 1.

CHAIRMAN GRAYBILL: Mr. Etchart.

DELEGATE ETCHART: Mr. Chairman. I move that when this Committee does rise and report, after having had under consideration General Government Proposal Number 12, Section 1, it recommend the same be adopted. Mr. Chairman, this section, with the exception of the title change from "distribution" to "separation", is identical to Article VI in the present Constitution. The committee feels a statement dividing the powers of government among the three branches of state government is essential to any constitution. The present article has been the crucial factor in determining much litigation and is an invaluable tool for the courts in deciding matters of governmental jurisdiction. A statement dividing the powers of government is designed to act as a check on overly ambitious branches of government. Mr. Chairman, I think that that explanation should be enough, as this separation of powers is well understood and well accepted.

CHAIRMAN GRAYBILL: Mr. Aronow, you have a proposed amendment to Section 1, right? Would you like the clerk to read it?

DELEGATE ARONOW: Yes, please.

CLERK HANSON: "Mr. Chairman. I move to amend Section 1, General Government proposal, on page 3, at line 15, by adding the following sentence: 'In the Judicial Department, there shall be a Clerk of the Supreme Court, who shall hold his office for the term of 6 years. He shall be elected by the electors at large of the state.' Signed: Aronow." Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Aronow.

DELEGATE ARONOW: We, earlier, in the Judicial Article, on a motion to delete, without any debate, eliminated the office of Clerk of the Supreme Court from the Constitution. This morning—Oh, and in that process, we eliminated the office in a rather cavalier fashion. There wasn't a word said; there wasn't a bit of debate; there was no discussion. It seemed like a good idea at the moment. This morning we adopted, on third reading, Section 3 of the Bill of Rights, the rights—and this is one of the individual rights—the rights of pursuing life's basic necessities. We're not here to play God, to take away a man's livelihood, take away his office; he had a right to rely upon it. We did eliminate one office—that's the State Treasurer—but that treasurer is not able to run to succeed himself, so we did not deprive anyone of the right to make a living or the right to hold a job. We did eliminate the State Auditor, and then we put the State Auditor back in. And we should be consistent, at least. I admit that this probably is not the place in the Constitution where this matter should be handled, but Style and Drafting, I'm sure, can place it in the right article of the Constitution. And for the—and I'm—and I ask you all to have a little charity in your hearts, to be consistent, if that's possible in this body, and not pull the rug out from any individual. And I ask your support for this amendment. Thank you.

CHAIRMAN GRAYBILL: Mr. Dahood.

DELEGATE DAHOOD: Mr. Chairman. When I campaigned for this Convention, I campaigned on the principle of a short ballot. I argued and debated, on the several occasions when the opportunity arose, that there was certain offices in state government that did not participate in the determination of policy, and as a consequence, there was no real justification for their retention as elective offices. Arguments were presented here to the effect that that particular premise had to be countered with the requirement that the people be permitted to exercise their franchise of participating in government and this could truly be exercised only by allowing them to vote for certain offices at the elections held in the state. I balanced that reasoning with my own reasoning that I formulated and adopted prior to coming here, and I think my record will indicate that I accepted that particular premise so that the people could fully participate through the elective process, even though they voted for offices that would not be involved in policymaking. The only office that we eliminated—and the Treasurer's office, of course, is a different consideration, since there was no right to succeed oneself in that—was the office of Clerk of the Supreme Court—a gentleman who has served Montana so well and so ably; has been a friend of all; has never allowed the fact that he had party label to have anything to do with the way in which he greeted people that came into his office to either file documents, file briefs, seek services or seek his advice. He has been a real humanitarian over all the years; and although perhaps this has no real basis for consideration by us, he has taken it as a definite insult on a personal basis; he has felt that this Constitutional Convention has reflected upon him and his service to the state over all these years. And being somewhat fair about it, I think we should all—or would all have to agree there is some basis for his reaction to our action in that fashion. We have left the clerks of the District Courts throughout the 18 judicial districts and throughout the 56 counties on an elective basis; we have left the Montana Supreme Court on an elective basis. And I fail to see what justification there is, then, for taking this one individual office out of the entire judicial system and saying that, for him and for him alone, it shall be appointive. I submit that, as long as we did not go to the short ballot, that we should reconsider our position and adopt the motion that has been made by Delegate Aronow and allow Style and Drafting to make that correction in the judicial article; and I support the motion that's before this body.

CHAIRMAN GRAYBILL: Quite frankly, the Chair is disturbed by this amendment, because it seems to the Chair to be grafting onto the General Government Article in a—a reconsideration. The Chair will take 5 minutes and read the Judicial Article and see what it was we voted on, and if this is the same thing, the Chair is not going to allow reconsideration by this manner. There are other ways to do it, but the Chair is disturbed by this. So we'll be—stand in recess a moment while the Chair reads the Judicial Article.

(Recess)

CHAIRMAN GRAYBILL: The Chair is now ready to rule. The Chair observes that when we debated the Judicial Article, we debated a Section 12, the first four lines of which are identical with the proposed amendment. The second part of the article, that was deleted at that time—part of it dealt with—one sentence dealt with the clerks of the District Court, which there is no proposal to change here; the other part that was deleted at that time dealt with the term, qualifications and compensation of the District Court clerks, so the only part of Section 12 that was deleted that pertained at all—No, I'm wrong about that; Section 11 it was, Clerk of the Supreme Court. The first part was identical with what has been proposed in this amendment; the second part dealt only with the salary and qualifications and duties, to which the amendment here does not speak at all. The Chair is therefore going to rule that the proposed amendment to the General Government Article is identical with something that we deleted by a vote of 57 to 31. The Chair is going to disallow the amendment, at this time, of the General Government Article. You may challenge the ruling of the Chair. The Chair will announce, now, that if the Chair is sustained, the Chair will allow, at some appropriate time, when we finish general government or on recess, a motion to suspend the rules and reconsider whatever we've done in the Judicial Article for that purpose alone, so that the matter may be reached if this body wishes to reach it. But the Chair feels that we should not allow amendments to the other articles which have been reached and where other people have been barred by failure to be able to get enough people to suspend the rules or by failure to reconsider or by not being on the prevailing side at the right time. In other words, all these rules that—by which we protect our work should not be easily overturned by grafting onto the General Government Article something we have already decided. Now, that's the Chair's ruling; if you care to challenge it, well, let's challenge it.

Mr. Holland.

DELEGATE HOLLAND: Mr. Chairman. I'll challenge the rule of the Chair and ask for a vote of the house to allow a vote on the amendment.

CHAIRMAN GRAYBILL: Very well. The Chair will allow Mr. Holland's challenge to the Chair's ruling. We will vote on it in a minute, after you've discussed it if you care to. You will recall that the motion that will be put is to sustain the challenge. So you would vote Yes to sustain Mr. Holland; you would vote No to sustain the Chair. The Chair has a right to explain his ruling. I think I've adequately explained my ruling to you; I won't explain it any more. You may discuss it.

Mr. Mahoney.

DELEGATE MAHONEY: I must rise to state I think the Chair is absolutely right in this ruling that you can't hook onto something, and there is a way—we've been doing always in the past—and beings this is the last article, I think it would be awful if, all of a sudden, we all got to hooking on things that have been in the past. And I am in favor—I might state that I am in favor of Mr. Aronow's idea, but I think that the proper procedure is the way the Chair has said it.

CHAIRMAN GRAYBILL: Mr. Arness.

DELEGATE ARNESS: Mr. Chairman. I think it's only fair to point out, in answer to Mr. Mahoney, that we haven't always done this this way in the past and that when we considered the Executive Article, we tacked on a provision relating to Legislature audit, and at the time that we did it, we discussed it and it was decided that, even though it belonged in the Legislative Article, that we'd consider it—put it in the Executive Article and then Style and Drafting could put it back in the Legislative Article, where it belonged, later on; and that was, in fact, done. If we do what we're proposed to do here now, we're just doing what we did before and the President has already established for it. I submit that we should go ahead and do this this way.

CHAIRMAN GRAYBILL: Mr. Champoux.

DELEGATE CHAMPOUX: Mr. President. At this late stage of the game, I'm very, very disturbed at your latter statement, where you said that you could bring this matter up for reconsideration possibly later on. Does that mean, then, that after we have worked over these articles and have them in final consideration, that somebody can then amend them again?

CHAIRMAN GRAYBILL: Are you addressing an inquiry from me?

DELEGATE CHAMPOUX: I am addressing that to you, sir.

CHAIRMAN GRAYBILL: The Chair is of the opinion that this body is plenary, and if you want to suspend your rules at any time, you can suspend your rules. Now, whether or not you should is another matter, and I—but I think that the Chair has the right to rule that that should be done at an appropriate time. This is not a motion to suspend the rules. I'm not saying that I favor it or vote for it, but I'm saying that if we wanted to suspend the rules today and redo something, I guess we could. There's really nothing says we can't; we have a rule that says the rules can be suspended. I am merely pointing out there is a way to do it, and I'm not going to let them do it this way if I can help it. When they do it the other way, those who don't want the rules suspended will have to defend themselves.

DELEGATE CHAMPOUX: May I just make one more comment, sir?

CHAIRMAN GRAYBILL: Yes, Mr. Champoux.

DELEGATE CHAMPOUX: I would caution every delegate in this assembly to be very aware of anything that comes, from now on, in this manner. Just think about everything that comes from now on. Thank you.

CHAIRMAN GRAYBILL: Mr. Eskildsen.

DELEGATE ESKILDSEN: I would just like to point out to the delegation that in a one-house body, this is the only opportunity you have to reconsider anything that you've done if you have—until everyone is satisfied that the vote is exactly the way that we take it. Now, on the close votes, there's nothing wrong in reconsidering to see what we've—see if we've really done what we intended to do. If we had a two-body assembly, where it went back and forth, it's a little different; but with one body, this is the only opportunity we have—and that's in reconsideration. However, I do support the President in what he has said up there right now; this is not the right place to do it. But, later on, when the time is right, I'll support that move to reconsider, to suspend the rules, because it's only right that we give everybody a—one last chance to take a look at anything we do.

CHAIRMAN GRAYBILL: Mr. Scanlin.

DELEGATE SCANLIN: Mr. Chairman. Does anyone have the vote on that—from Mr. Eskildsen's—was it a close vote?

CHAIRMAN GRAYBILL: I announced it a few minutes ago as 58 to something—you mean the vote on this issue before? The vote to delete Section 11 as 57 to 31.

Mr. Brown.

DELEGATE BROWN: Mr. Chairman. I would just like to caution the delegates that if we do not sustain the ruling of the Chair, then under this General Government, everyone here who has any dissatisfaction with any article can merely make an amendment, we'll have to debate every one of them. And the only proper way is to reconsider or suspend the rules.

CHAIRMAN GRAYBILL: Is there further discussion?

(No response)

CHAIRMAN GRAYBILL: Very well. The issue is on Mr. Holland's motion challenging the decision of the Chair to disallow Mr. Aronow's amendment. The proper form is—of the question is: Does the house—or does the body sustain the challenge? That means, if you vote Aye—on a roll call vote, if you vote Aye, you're voting for Mr. Holland; if you vote Nay, you're voting to sustain the Chair.

Mrs. Pemberton, for what purpose do you rise?

DELEGATE PEMBERTON: I would just like to ask one question. I'm sorry to have it brought up right at this instant, but what—for the uninitiated in these affairs, what does final draft mean, then?

CHAIRMAN GRAYBILL: Final approval?

DELEGATE PEMBERTON: Yes, final approval—which we—I thought that was the very end.

CHAIRMAN GRAYBILL: It is, except this body has the power to suspend its rules, Mrs. Pemberton.

DELEGATE PEMBERTON: Thank you.

CHAIRMAN GRAYBILL: And when we adjourn sine die, that's the only thing we can't undo, then we're done. (Laughter) We're done as far as the constitutional drafting is concerned; we're not done as far as spending the money, but we're done considering the articles when we adjourn sine die.

Mr. Romney.

DELEGATE ROMNEY: Mr. Chairman. I assume that under the rules as you announced them, if Mr. Holland's motion is defeated, we still have recourse to the right to suspend the rules and proceed?

CHAIRMAN GRAYBILL: Yes, I announced that I would allow, at some appropriate time, that remedy to be attempted. I don't want to tell you, but somebody's got to decide whether you can do this or a lot of people might be working over the noon hour. All right, is there any other discussion?

(No response)

CHAIRMAN GRAYBILL: Very well. The motion will be a roll call vote on whether or not to sustain the challenge of the Chair. If you vote Aye, you're sustaining the challenge; if you vote No, you're sustaining the Chair. I asked for the roll call, do I have any seconds?

(Affirmative response)

CHAIRMAN GRAYBILL: Okay, has every delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any delegate want to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, cast the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Nay
Arbanas	Nay
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Nay
Babcock	Nay
Barnard	Nay
Bates	Nay
Belcher	Nay
Berg	Nay
Berthelson	Nay
Blaylock	Nay
Blend	Nay
Bowman	Nay

Brazier	Nay
Brown	Nay
Bugbee	Nay
Burkhardt	Nay
Cain	Absent
Campbell	Absent
Cate	Nay
Champoux	Nay
Choate	Nay
Conover	Nay
Cross	Nay
Dahood	Nay
Davis	Nay
Delaney	Excused
Driscoll	Aye
Drum	Nay
Eck	Nay
Erdmann	Nay
Eskildsen	Nay
Etchart	Nay
Felt	Excused
Foster	Nay
Furlong	Nay
Garlington	Nay
Graybill	Nay
Gysler	Nay
Habedank	Nay
Hanson, R.S.	Nay
Hanson, R.	Aye
Harbaugh	Nay
Harlow	Nay
Harper	Nay
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Nay
Johnson	Nay
Joyce	Nay
Kamhoot	Nay
Kelleher	Aye
Leuthold	Nay
Loendorf	Nay
Lorello	Absent
Mahoney	Nay
Mansfield	Nay
Martin	Nay
McCarvel	Aye
McDonough	Nay
McKeon	Aye
McNeil	Nay
Melvin	Nay
Monroe	Nay
Murray	Nay
Noble	Nay
Nutting	Nay
Payne	Nay
Pemberton	Nay
Rebal	Aye
Reichert	Nay
Robinson	Nay
Roeder	Nay
Rollins	Nay
Romney	Nay
Rygg	Nay
Scanlin	Nay
Schiltz	Nay
Siderius	Nay
Simon	Nay
Skari	Nay
Sparks	Nay
Speer	Nay
Studer	Nay
Sullivan	Aye
Swanberg	Nay
Toole	Nay
Van Buskirk	Nay
Vermillion	Nay
Wagner	Nay
Ward	Nay
Warden	Nay
Wilson	Nay
Woodmansey	Nay

CLERK HANSON: Mr. Chairman, 16 delegates voting Aye, 79 voting No.

CHAIRMAN GRAYBILL: 16 delegates having voted Aye and 79, No, the challenge is not sustained and Mr. Aronow's motion is wiped out. Is there other discussion of Section 1?

Mr. Kelleher.

DELEGATE KELLEHER: I don't like Section 1 because I feel that the Legislature is primus inter pares or, even more than that, that the Legislature is supreme, over the Executive and over the Judicial; but I am not going to make any amendments.

CHAIRMAN GRAYBILL: Is there other discussion of Section 1?

(No response)

CHAIRMAN GRAYBILL: Very well. Members of the body, you have before you for your consideration, upon a motion of Mr. Etchart that when this Committee does arise and report, after having had under consideration Section 1 of the General Government Article on general government, that we recommend it be adopted. All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted. Mr. Clerk, would you read Section 2.

CLERK HANSON: "Section 2. Continuity of government. The seat of government shall be in Helena except during periods of emergency resulting from disasters or enemy attack. The Legislative Assembly may enact laws to insure the continuity of governmental operations during a period of emergency. Such laws may deviate from other provisions of the Montana Constitution conflicting therewith but shall be effective only during the period of emergency that affects a particular office of the governmental operation." Mr. Chairman, Section 2.

CHAIRMAN GRAYBILL: Mr. Etchart.

DELEGATE ETCHART: Mr. Chairman. I move that when this Committee does rise and report, after having had under consideration General Government Proposal Number 12, Section 2, it recommend the same be adopted.
Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Etchart.

DELEGATE ETCHART: Mr. Chairman. This section would revise the provisions in Article X, Sections 2, 3 and 4, of the present Constitution relating to the seat of government and Article V, Section 46, relating to continuity of government. The proposed section is sufficient to allow the Legislature to enact laws to provide for continuity of government under any situation which may arise.

CHAIRMAN GRAYBILL: Is there any discussion?
(No response)

CHAIRMAN GRAYBILL: Very well. You have before you, on Mr. Etchart's motion, Section 2. All in favor of Section 2, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: And it's adopted. Will the clerk read Section 3?

CLERK HANSON: "Section 3. Oath of office. Members of the Legislative Assembly and all officers, executive, administerial or judicial, shall, before they enter upon the duties of their respective offices, take and subscribe the following oath of affirmation, to-wit: 'I do solemnly swear or affirm that I will support, protect and defend the Constitution of the United States and the Constitution of the State of Montana and that I will discharge the duties of my office with fidelity; so help me God.' And no other oath, declaration or test shall be required as a qualification for any office or public trust." Mr. Chairman, Section 3.

CHAIRMAN GRAYBILL: Mr. Etchart.

DELEGATE ETCHART: Mr. Chairman. I move that when this Committee does rise and report, after having had under consideration General Government Proposal Number 12, Section 3, it recommend the same be adopted. Mr. Chairman, this section on the oath is a shortened version of the oath presently contained in Article XIX, Section 1, of the present Constitution. This oath contains the intent of the present Constitution's oath, but without the extensive detail. The proposed oath also allows a person of any religious persuasion, including an atheist or agnostic, to take the oath without violating his principles. The provision also prohibits any other oath as a qualification for any state public office.

CHAIRMAN GRAYBILL: Very well, is there discussion of Section 3 and the oath?
(No response)

CHAIRMAN GRAYBILL: Members of the committee, you have before you, on the recommendation of Mr. Etchart that when this committee does arise and report, after having had under consideration Section 3, that we recommend the same be adopted. All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: Section 3 is adopted. Will the clerk read Section 4.

CLERK HANSON: "Section 4. Initiative. The people may enact laws by initiative in all matters except appropriations of money and local or special laws prohibited by this Constitution. The highway revenue provided for in Article blank, Section 6, shall nevertheless be subject to appropriation by initiative. Initiative petitions must be signed by 5 percent or more of the legal voters in each of one-third or more of the legislative representative districts, and the total number of signers must be 5 percent or more of the total legal voters of the state. Each petition must contain the full text of the proposed measure. Petitions must be filed with the Secretary of State 4 months or more prior to the election at which they will be voted upon. The enacting clause of all initiative measures shall be: 'Be it enacted by the people of the State of Montana'." Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Etchart.

DELEGATE ETCHART: Mr. Chairman. I move that when this committee does arise and report, after having had under consideration General Government Proposal Number 12, Section 4, it recommend the same be adopted.

Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Etchart.

DELEGATE ETCHART: This is the provision for statutory initiative agreed on by the General Government and the Legislative Committees, jointly. The General Government Committee feels the petition requirements of 5 percent in each of one-third or more of the legislative representative districts and 5 percent or more of the total legal voters of the state are high enough to prevent frivolous legislative efforts by a small minority, yet low enough to allow serious popular measures to be initiated by the people. Incidentally, the 5 percent is 3 percent lower than the present Constitution allows for.

CHAIRMAN GRAYBILL: Very well. Mr. Loendorf, you have an amendment up here. Would you like the clerk to read it?

DELEGATE LOENDORF: Please, Mr. Chairman.

CLERK HANSON: "Mr. Chairman. I move to amend Section 4, page 4, lines 18, 19 and 20, of the General Government Committee proposal Number 12 by deleting the following words: 'The enacting clause of all initiative measures shall be: Be it enacted by the people of the State of Montana.' Signed: Loendorf." Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Loendorf.

DELEGATE LOENDORF: Mr. Chairman. The purpose of this amendment is to simply remove from the Constitution a provision which may prevent laws being declared void on a technical basis. This provision has nothing to do with the substance of anything. And let me explain by an analogy which, I think, illustrates the point, although it's perhaps not a fair analogy. Supposing this required—the Constitution required that initiatives be written out on yellow paper and someone drafted one on white paper and the court declared it void. That's exactly what has happened in the past under this—a similar provision. We also had under the Legislative Article a clause for bills, which is the same, only it read: "Be it enacted by the Legislative Assembly of the State of Montana." An old 1937 law was declared void on this basis when the Legislature inadvertently used the enacting clause: "Be it enacted by the people of the State of Montana" instead of "Be it enacted by the Legislative Assembly of the State of Montana." Neither of these phrases had anything to do with the law passed, yet the law was declared void because the Constitution required this phrase be a part of the bill. I was a member of the joint committee that met on this as a member of the Legislative subcommittee, and I'm sorry—and I would like to share the blame—for not having taken this sentence out earlier and having to bring it before the body now. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Brown.

DELEGATE BROWN: The General Government Committee is all in favor of this amendment.

CHAIRMAN GRAYBILL: Is there further discussion?

(No response)

CHAIRMAN GRAYBILL: Very well. The issue before us, then, is Mr. Loendorf's amendment to strike lines 18 through 20—most of those lines—the sentence being: "The enacting clause of all initiative measures shall be: 'Be it enacted by the people of the State of Montana.'"

Mr. Mahoney.

DELEGATE MAHONEY: Mr. Chairman, might—would the gentleman, Mr. Etchart, yield to a question?

CHAIRMAN GRAYBILL: Mr. Etchart?

DELEGATE ETCHART: Yes.

DELEGATE MAHONEY: Why did you continue to use the 4 months for this time, instead of going down to—with all our modern communications and everything we have?

CHAIRMAN GRAYBILL: Now, just a minute, Mr. Mahoney; you're off the subject, aren't you? The subject is whether or not to eliminate—

DELEGATE MAHONEY: Oh—oh—I—I beg your pardon.

CHAIRMAN GRAYBILL: I haven't quite put that question to a vote yet; I was trying to. All right, now, everyone understands Mr. Loendorf wants to strike that "be it enacted" language. All in favor of Mr. Loendorf's amendment, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, say No.
(No response)

CHAIRMAN GRAYBILL: It carries, and the language will be stricken.
Now, Mr. Mahoney.

DELEGATE MAHONEY: Now, might I renew my question to Mr. Etchart?

DELEGATE ETCHART: Yes. Well, we thought the 4 months would give people enough time to consider it, even with our better communications.

DELEGATE MAHONEY: Can you—with all we have now—say these people—I mean—this would mean July, this has to be in. I was wondering, did you ever give any thought to 60 days or something like that? I think we're going to try and get away from elections fooling around too long, having this long time between primaries. I'm wondering, if we don't defeat some things or get some things too long, that the people lose interest in them. Did you ever give any thought to that?

DELEGATE ETCHART: Well, the committee discussed it briefly, Mr. Mahoney, but didn't feel that there was any real advantage to shortening it up more than 4 months. We thought that it would be beneficial to have enough time for all the people to study it out.

DELEGATE MAHONEY: Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Mahoney.

DELEGATE MAHONEY: I'm looking for the line—all I want to do, if I can find the right line—it's in line 16—and I would like to strike that from "four months" to "two months". I move it, Mr. Chairman, if I can without a written amendment. I couldn't get it up there later—It's only one word.

CHAIRMAN GRAYBILL: We'll allow your amendment, Mr. Mahoney. Mr. Mahoney wishes to amend line 16 by taking out the word "four" and putting in the word "two", so that it means that the petitions must be filed with the Secretary of State 2 months or more prior to the election. Mr. Mahoney, you through?

DELEGATE MAHONEY: (Inaudible)

CHAIRMAN GRAYBILL: Mr. Kelleher.

DELEGATE KELLEHER: Mr. Chairman, as I have done so often in the past during this convention, I heartily endorse Mr. Mahoney's amendment.

CHAIRMAN GRAYBILL: Mr. Habedank.

DELEGATE HABEDANK: Mr. President, I resist the motion to change this to 2 months. There are certain work to be done by the Secretary of State; things have to go out to the clerks—clerk and recorders office in connection with these matters, and I think that 2 months is just a little bit too short. I don't believe it hurts the people of the State of Montana to have something on their agenda for 4 months. Initiated measures are an unusual way of passing legislation. Preferably legislation should be passed by the Legislature, where it can be discussed, debated and all the changes that are made that are been made by this convention, to make good legislation. Initiative measures, by and large, in my opinion, are the result of a small group who get together, they come up with an idea, they don't discuss the thing properly, but they—as far as wordage is concerned—but they decide they want something done; so they put the measure on the ballot and away they go. And I think it will be well for the people of the State of Montana to have 4 months to deliberate on it; and I resist the amendment.

CHAIRMAN GRAYBILL: Mr. Vermillion.

DELEGATE VERMILLION: Mr. President, I resist the amendment, and I think we should make clear that what we're saying here is that the petitions must be filed with the Secretary of State within 4 months, and not when they go out to the voter. It might be that the 4 months—that gets the Secretary of State's office busy at getting these things printed up and sent out to the voters, and they should have, I think, at least 50 or 60 days to study these things. If these petitions were filed with the Secretary of State only 60 days before the election, the voters might have only 20 or 30 days to look over. So I think that if you want them to have 60 days to look it over, they should—the petition should be given to the Secretary of State about 4 months before the election.

CHAIRMAN GRAYBILL: Mr. Mahoney.

DELEGATE MAHONEY: Mr. Chairman, in answer to that, this Constitution isn't going to have very long out here, not 4 months or any time like that. It's just kind of getting in line with the Constitution. I believe we got about 30, 40 days after it gets down there—it's going to be 60 days, we have to be 60 days in there; so I think we're just kind of getting along with the way we're operating the Constitution.

CHAIRMAN GRAYBILL: Mr. Choate.

DELEGATE CHOATE: Mr. Chairman, there is one other point that maybe Mr. Mahoney hadn't considered. In our referendum and initiative thing in the other article, we provide that the Secretary of State shall certify these petitions. Now, in order for him to do that, he's got to have the County Clerks—if this is a statewide petition, they have to be checked in the counties, and that's going to take a little time. If the petition is filed with him and he has to have it back to the people on the ballot within 60 days, it might not have time enough to go back to the counties for the County Clerks to certify the petitions within their respective counties. So I think that it takes, maybe, a little more than 60 days, and I believe the 4-month period would suffice.

CHAIRMAN GRAYBILL: Mr. Harper.

DELEGATE HARPER: Correction to what Mr. Choate said. If you are getting an initiative signed, they go through and are certified in all the counties first, and then only do they go to the Secretary of State's office. This is one of the big messes about getting an initiative petition. A person getting an initiative signed can get them all in to the county clerk, and then if the county clerk for some reason holds them up and doesn't get them in to the Secretary of State's office by the deadline, you're dead. So, after this date of getting them in to the Secretary of State's office, they do not then have to be checked by the County Clerks any more.

CHAIRMAN GRAYBILL: Very well, the issue is on Mr. Mahoney's motion to change the word "four"—F-O-U-R—to the word "two" on line 16, so that you only have to have these petitions in to the Secretary of State 2 months before the election. All in favor of that motion, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

CHAIRMAN GRAYBILL: The Noes have it.

Mr. Joyce, you have an amendment before the Chair, do you want us to read it?

DELEGATE JOYCE: Please, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Clerk.

CLERK HANSON: "Mr. Chairman. I move to amend Section 4 by adding a new sentence on line 28, page 9, to read as follows: 'The sufficiency of the initiative petitions—

CHAIRMAN GRAYBILL: —shall not be question—

CLERK HANSON: —shall not be questioned once the election is held.' Signed: Joyce."

CHAIRMAN GRAYBILL: Very well. He wants to add—Mr. Joyce wants to add a sentence, at the end of Section 4, to say: "The sufficiency of the petitions shall not be questioned once the election is held." Mr. Joyce.

DELEGATE JOYCE: Mr. Chairman. I propose to add this sentence just to make perfectly clear—I—when I was a young lawyer and knew everything, much more than I do now, I had the privilege of being an assistant attorney general and had the privilege of arguing in the Supreme Court of Montana the veterans' bonus initiative, and one of the challenges that was made in that case, after the election was held and after it passed overwhelmingly, was that the petitions that had been circulated in the various counties were insufficient, that some of the names were forgeries, and that sort of thing. And the argument was made, quite seriously, that, since the Constitution required that these petitions be signed by the sufficient number in each county—and we had the dilemma, then, of going back and trying to prove whether or not some of them were forgeries. We argued to the Supreme Court that once the election was held, it couldn't be challenged, but notwithstanding, the attorney on the other side kept needling us that the Constitution was mandatory. And so, I just thought that perhaps this little sentence wouldn't do any harm to—would make it perfectly clear in the future that once the election is held, why, you can't challenge the sufficiency of the petitions.

CHAIRMAN GRAYBILL: Mr. Toole.

DELEGATE TOOLE: Mr. Chairman, I rise in support of Mr. Joyce's amendment. I had personal experience with such an election where the petition was disqualified for strange reasons: because a physician put the word "Doctor" in front of his name, or a lady put "Mrs." in front of her name. We won in the Supreme Court, but I think this sort of thing would definitely need a remedy in this Constitution.

CHAIRMAN GRAYBILL: Very well. The issue is on Mr. Joyce's amendment, which would add, at line 18 on page 4, a sentence which would say: "The sufficiency of the initiative petition shall not be questioned once the election is held." So many as shall be in favor of that amendment, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

CHAIRMAN GRAYBILL: It's adopted. Is there other discussion?
Mr. Foster.

DELEGATE FOSTER: Mr. Chairman, fellow delegates. I move to amend, on page 4, line 16, the last word, "four", by deleting it and adding the word "three".

CHAIRMAN GRAYBILL: Very well. Mr. Foster has an amendment, similar to Mr. Mahoney's amendment, changing it from "four" to "three" instead of "four" to "two", so that everybody understands it.
Mr. Foster.

DELEGATE FOSTER: I think that the remarks that Delegate Mahoney made were very well put, and I also felt that some of the remarks of those who felt that 2 months was not quite sufficient time could be satisfied by making it 3 months. This is obviously a compromise between the two positions, and I think it would improve the section. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mrs. Robinson.

DELEGATE ROBINSON: Will Mr. Etchart yield to a question, please?

CHAIRMAN GRAYBILL: Mr. Etchart?

DELEGATE ETCHART: I yield.

DELEGATE ROBINSON: Mark, in the—your first General Government Article that we dealt with, on constitutional initiatives for calling a constitutional convention, you didn't mention any time limit in terms of when the petitions had to be filed. And I was wondering what your reasoning was in terms of why, now, you should put this in and not before in the other article.

DELEGATE ETCHART: Well, this is in the present Constitution, and we felt it has been well tested through the courts. And the—I think both the Legislative and—the Legislative Committee and our committee felt that there was some value in retaining a lot of the language from the present Constitution. So, I think that was the main reason we left it in.

DELEGATE ROBINSON: Mr. President. Will you yield to one more question?

DELEGATE ETCHART: I yield.

CHAIRMAN GRAYBILL: Mr. Etchart.

DELEGATE ROBINSON: I—I see that point, but when I compare these two articles, there just doesn't seem to be much consistency in terms of either procedure for initiative—and, of course, the numbers and percentages in the districts vary a great deal, too—, but it just seems that if you are going to write a time limit in on one initiative procedure, it should perhaps be written into the other, or I think, as we've kind of indicated just on the discussion that maybe 4 months is too much, 2 months is not enough, that this might be something better left to the Legislature to determine.

DELEGATE ETCHART: Well, I—Miss Robinson, in our—thinking of the committee is that the initiative on constitutional amendment would be used very, very rarely, so we didn't go into quite as much detail with it. Also, if you will notice, we require 10 percent of the voters on the constitutional provision and we only require 5 percent of the voters on our initiative in this section; and the reason for that was to make it easier to amend the statutes than it is to amend the Constitution. So we feel that it will be a very rare occasion that the initiative will be used in constitutional revision and amendment; but this provision to amend the statutes probably will be used a—quite a bit.

CHAIRMAN GRAYBILL: Is there other discussion of Mr. Foster's amendment?

DELEGATE FOSTER: Could we have a roll call?

CHAIRMAN GRAYBILL: Mr. Foster wants a roll call vote. All in favor of Mr. Foster's amendment, which is to change "four" to "three", vote Aye on the voting machines; and all opposed, vote No. Has every delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Please take the ballot.

Aasheim	Aye
Anderson, J.	Nay
Anderson, O.	Nay
Arbanas	Aye
Arness	Aye
Aronow	Nay
Artz	Nay
Ask	Nay
Babcock	Nay
Barnard	Aye
Bates	Aye
Belcher	Nay
Berg	Nay
Berthelson	Nay
Blaylock	Aye
Blend	Aye
Bowman	Absent
Brazier	Nay
Brown	Nay
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Nay
Dahood	Aye
Davis	Nay
Delaney	Excused
Driscoll	Nay
Drum	Absent
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Nay
Garlington	Nay
Graybill	Aye
Gysler	Aye
Habedank	Nay
Hanson, R.S.	Aye
Hanson, R.	Nay
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Absent
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Nay
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Absent
McDonough	Nay
McKeon	Aye
McNeil	Nay
Melvin	Nay
Monroe	Aye
Murray	Nay
Noble	Aye
Nutting	Nay
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Nay
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye

Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Nay
Sullivan	Aye
Swanberg	Nay
Toole	Nay
Van Buskirk	Aye
Vermillion	Nay
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Absent
Woodmansey	Aye

CLERK HANSON: Mr. Chairman, 63 delegates voting Aye, 29 voting No.

CHAIRMAN GRAYBILL: 63 having voted Aye and 29 voting No, the amendment prevails and on line 16, you should amend the word "four" to "three".

Mr. Harper.

DELEGATE HARPER: Mr. Chairman. I have something of a little more substantive nature here, I feel, and I think it ought to be brought up. This morning—first, I'll make—propose an amendment; it's very simple. It would simply delete the section that was added by voice after the asterisk in line 10 this morning—after the word "situation", in Section 4. Those words are "The highway revenue provided for in Article blank, Section 6, shall nevertheless be subject to appropriation by initiative." My amendment is to delete that, to restore the article to what it was before that addition was made. And I will give you my line of reasoning and not argue the point, then. Just—I think the body ought to be aware of what this will do. Mr. Etchart, Chairman of the committee, was perfectly correct when he pointed out that differences in the amendment to the Constitution by initiative procedure and in the amendment to statute initiative section we are now dealing with, Section 4. It takes 10 percent of the voters to get an initiative on the ballot to amend the Constitution: this section calls for 5 percent to get an initiative on the ballot to change a law. Now, put that one fact together with this fact: the first sentence of Section 4—the present Section 4 on initiative: "The people may enact laws by initiative on all matters except appropriations of money" and so forth. Now, then, our Legislative Committee at first was dealing with this matter before it was passed to General Government. We talked at length on this. We were very much in favor of the initiative and the referendum; completely in favor of it. We also came out, I think unanimously, in favor of making an exception in terms of appropriations. Now, for example, when the public starts making appropriations or starts cancelling appropriations that have been made and appropriations of funds on which agencies have already budgeted and so forth, you get into a really ticklish area. And so, while we were all for keeping everything open to the public in terms of initiative referendum, we were leery at that point, and so we supported wholeheartedly the General Government's approach to this matter of leaving appropriations out of this. Now, then, put those two things together. What one appropriation mentioned in the Constitution will now be eligible for removal by initiative initiated by only 5 percent of the people? You guessed it—the highway antidiversion measure—or however you want to title it. I feel that this inclusion is no accident. And I simply wanted to call it to the attention of the floor before it went through just as part and parcel of this thing, which we have not had on our desks, you see, to look at as we have had the rest of it. And I think we just simply ought to know that we're making an exception for this one thing for a very specific purpose, contrary to the general rule in the first sentence of Section 4 and, of course, in a much weaker fashion, allowing an amendment of the Constitution on this one point for 5 percent instead of 10 percent as the original article called for.

CHAIRMAN GRAYBILL: Very well. The Chair will allow Mr. Harper an amendment, the purpose of which is to delete the material that was added by the committee before it presented this report, about the highway revenue provided for in Article blank, Section 6, "shall nevertheless be subject to appropriation by initiative". And it is now open for discussion.

Mr. Habedank.

DELEGATE HABEDANK: Mr. President, I don't believe the addition to this Section 4, as made by the General Government Committee, was made because of any general disagreement with the principles which Mr. Harper discussed. However, this convention voted, in passing the Revenue and Finance measure, the following provision, which is Section 2, subsection 2, of Section 6: "Such revenue may be appropriated for other purposes by a three-fifths vote of the members of each house of the Legislature or by initiated measure approved by a majority of the qualified electors." This body, by a majority vote, has said in that specific section that that particular thing could be initiated; and it's a matter of trying to eliminate a conflict between the initiative section which we have proposed and subsection 2 of Section 6, which this body has adopted, that that was added for. We would be very happy, I think, if they would strike out the initiated measure in subsection 2 of Section 6, but there's got to be some correlation between the two.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman and members of the committee. Some time ago, when we were debating the highway matter, Mr. Etchart came to me asking if we could take care of this conflict in Style and Drafting, and at that time I told him I thought it would need some kind of an amendment, either to the revenue and finance Section 6 article or to this one, and we decided that this would be the place to take care of it. I have no substantive interest in it, except that it would have been a substantive matter if it had come out of Style and Drafting with that amendment in there, because we wouldn't be entitled to make that amendment. So we thought the easiest way was to put this language in at this point so that the substantive material could be handled by the Committee of the Whole and then Style and Drafting would have no problems. There is definitely a conflict. If you read that section and keep in mind that Section 6 of the highway—of the revenue and finance provision allows just exactly what this prohibits—so there must be something done somewhere to remove that conflict.

CHAIRMAN GRAYBILL: For the benefit of the body, in case you don't have your Revenue and Finance Style and Drafting final adopted Section 6 before you, I'll read you subsection 2 of Section 6: "Such revenue may be appropriated for other purposes by a three-fifths vote of the members of each house of the Legislature or by initiated measure approved by a majority of the qualified electors." As I understand the situation—I'm not trying to argue it—the point is that that is a specific direction in Section 6 of Revenue and Finance that this money may be reached by initiation—I mean by initiative; we're now, in general government, setting up initiative; and ordinarily you can't appropriate by initiative, so there had to be an exception in the appropriation—in the General Government Article that denied the public the right to appropriate by initiative, and this is it. Now, let's discuss it.

Mr. Champoux.

DELEGATE CHAMPOUX: Would Mr. Harper yield to a few questions, please, sir?

DELEGATE HARPER: Yes.

DELEGATE CHAMPOUX: Mr. Harper, is your point that it is now easier, under this new section, with the 5 percent added, to, so to speak, get at this money by initiative? Is that your point?

DELEGATE HARPER: Mr. Champoux, that's exactly the point. At the time the Revenue and Finance Article was written and this reference which the Chairman just read, amendment by initiative, we had then passed in this body the amendment by initiative, Section 9, of their style—General Government report Number 2, which tells you how you, by initiative, may change the Constitution. And now we are coming back later, after that, with 10 percent in mind, and we voted for that with—this was on the books, in a sense—and now we're moving at 5 percent. I'm not really that hot on it; I just want to be understood that we're substantively changing this and we're, of course, doing it for this one measure and one measure only.

DELEGATE CHAMPOUX: Is it your feeling, then, that we should increase this; is this your point or not?

DELEGATE HARPER: Actually, I think —now I realize the boys—we're in a bind in terms of Style and Drafting and the rest of it—but it's something like we were talking to on Mr. Aronow's motion, although not completely. Really, if they want to make an exception to the way you amend the Constitution, it should have been put into—somewhere into Section 9 of their report Number 2, because Section 4 of the present report we are dealing with, initiative is talking about changing legislative matters; it is not talking about changing the Constitution. I don't want to belabor this point again, but I think it is a way of just cutting it in half, making it twice as easy to get the job done.

CHAIRMAN GRAYBILL: Mr. Habedank.

DELEGATE HABEDANK: Mr. President. I would like to state that I don't know whether Mr. Harper is in error intentionally or just misstated himself, but this initiative does not have to do with amending the Constitution; this is legislative initiative. The initiative for amending the Constitution still requires 10 percent.

CHAIRMAN GRAYBILL: Mr. Harper.

DELEGATE HARPER: He just told me that; he didn't ask me that. But if I may respond to it, well, then, I am—if I'm mistaken, it certainly is just because of my dumbness, and I'd like to clear it up. I thought this business we passed about the diversion money was going to be in the Constitution. See, I thought the Revenue and Finance Article was in—going to be in the Constitution; that's where I slipped up. Now if it is going to be in the Constitution, it seems to me like the only way to amend that is to amend the Constitution. That was my line of reasoning, Otto. Not true?

DELEGATE HABEDANK: No.

DELEGATE HARPER: Well—

CHAIRMAN GRAYBILL: Mrs. Babcock, I will come to you; but Mrs. Robinson has been up.

DELEGATE ROBINSON: I merely wanted to point out I think Reverend Harper is exactly right. There's another thing that's been overlooked. Not only are there differences between these two procedures in terms of percentage—10 percent for a constitutional amendment and 5 percent for legislative enactment—but it's also in terms of the number of districts that this petition signatures have to be spread over. In the constitutional amendment, they have to be obtained in two-fifths of the legislative districts, and to amend—or to enact legislation by initiative, they only have to be in one-third. And when you are talking about a 5-percent variance in terms of actual population, and then also a 7-percent variance in terms of distribution of petition signatures, you're talking about some real substantial differences.

CHAIRMAN GRAYBILL: Mr. Choate.

DELEGATE CHOATE: Mr. Chairman, I just might say that, for the edification of the people here, that in our committee we had no intention of trying to change this thing or put in something later. That is not the point of it. You see, our first article came out long before the revenue and finance article came out, and we had no way of knowing what that would have been; otherwise, we would have probably provided this in that report. And I'd say that if it could still be done, it probably would be more in order to revert it back to that one and leave it at 10 percent than as is presently provided for here. But that's the reason why it came out this way. Our report was out 2 weeks before the—or a week, at least, before the revenue and finance was; we had no knowledge of it.

CHAIRMAN GRAYBILL: Mrs. Babcock.

DELEGATE BABCOCK: Mr. Chairman, I was just going to ask Reverend Harper a question. I wondered if he was planning on building a canoe this summer; seeing as how he doesn't approve of highways, maybe he could travel by boat.

DELEGATE HARPER: The answer is "No, I'm not planning on building a canoe."

CHAIRMAN GRAYBILL: How about an ark? (Laughter)

DELEGATE HARPER: Well, if the deluge continues, I might have to, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Mahoney.

DELEGATE MAHONEY: Mr. Chairman. I wish to apologize to the body for not noticing in—when it came out in Revenue and Taxation—or I'd have certainly been on my feet—that we were going to let electors appropriate and change this formula by initiative. I had thought that—and I hadn't read it, and I'm going to blame myself—I went to Mr. Schiltz later, and we discussed this this morning, and I didn't know that the electors was going to have any part of appropriation at all. And I think this is—Now, we have made a mistake; I think we have made a mistake in this body; and I think right now we could correct it by eliminating this and say, "You just can't do it over another section; let Style and Drafting determine that this is what the body wanted." And I think we have plenty of time here to do that at this time and leave this part where it says, "except appropriations". And I think this should be done and this is the time to do it. This is one of the problems that we're going to have in the future with—when the unicameral system gets in—and we're going to have to admit them and make mistakes and clean them up as we go along, Mr. President. And I think it would be well if we just amended that out and let Style and Drafting correct on the end and says, "There's no appropriation by anybody"; then this can't be done. If you go out here to the point of letting me come out here to get the gas, then, immediately you're going to find—we're going to be in a terrible shape. And I think we should draw back—admit our error, correct our mistake, right now. Now, I don't know if this is right or that we can do it, Mr. Chairman, and it'll take, probably, a ruling from the Chair. But I think we could go out and then let Style and Drafting correct it.

CHAIRMAN GRAYBILL: Mr. Harlow, you were up next.

DELEGATE HARLOW: Mr. Chairman. In order to clear up this confusion in regards to the initiative for amending the Constitution and the initiative for enacting laws or—there are two different requirements between amending the Constitution and enacting laws. We have no variation of thinking nor variation of initiative measures when we set up two different qualifications for amending the Constitution by initiative and for enacting laws by initiative. You cannot amend the Constitution through legislative action less than two-thirds of a total vote of the members; you can enact laws merely by a majority of those voting—so I do not think you need to be alarmed over the variation in these two things. Now, I think we do need to be alarmed by the sentence that was put in at the committee. And I was not present at the committee; I was away on Constitution—on Convention business and was unable to attend the meeting, so I'm not necessarily opposing the committee, but I am not—this is going to be real good, you'll get a laugh out of this—I'm not opposing the committee, but I don't think that's a good sentence to put in. So I think, keeping this thought in mind about the initiative for the amending the Constitution and initiative for laws, they should not be compatible. They should be different, as they are now. So let's just keep our minds on this section and not try to bring in the section on amending the Constitution by initiative. Thank you, Mr. President.

CHAIRMAN GRAYBILL: Mr. Joyce.

DELEGATE JOYCE: Mr. Chairman, I rise in support of the motion to delete. And I think that maybe we could clear the whole matter up if somehow or other we could amend the tax and revenue section to say that the—somehow to read that the Legislature—such revenue may be appropriated for other purposes by three-fifths vote of the members of each house of the Legislature or by an initiated measure authorizing such appropriation. Because, as I recall, I think that must have been obviously the purpose—the intent of the committee, because it just never has been the situation of allowing people to appropriate money out of the public treasury by initiative in any constitution, because there may not be the money in there or they may appropriate more money than there is in there. And that just can't be, and I think that, obviously, the committee must have meant a—if the people got up an initiative authorizing the Legislature to divert it, that would be the same as a three-fifth vote. So I rise in support of the deletion in any event; let's not make the matter worse.

CHAIRMAN GRAYBILL: Mrs. Cross.

DELEGATE CROSS: Mr. Chairman, if I recall correctly, the intent of the Committee of the Whole when we discussed this measure under Revenue and Finance—was to make the Highway Department more responsible to the Legislature. If this sentence changes that intent, then I think we should delete it.

CHAIRMAN GRAYBILL: Mr. Champoux.

DELEGATE CHAMPOUX: Here's where we have to be cautious. Now, there's no mistake, Charley Mahoney, on the antidiversion amendment. That's been passed twice here. The intent of this committee—the intent of the committee can be questioned in terms of the percentage; I'll submit to that. But the general intent of this body has been known twice on that vote. Now, the question here is not one of appropriations, as I see it; not one of appropriations. That's already been settled—twice—when we passed that antidiversion amendment. The question here is the percentage of voters to be allowed to petition for an initiative appropriation which we allowed under the section that we passed under Revenue and Finance. Now, Charley is trying to give the Style and Drafting, as I see it, a substantial change that we've already voted on that would open up the Finance and Revenue Article again; and I'm opposed to it. Now, the Reverend Harper is right; this is a deluge to becloud the issue. The issue is the percentage we want to initiate a petition for appropriations.

CHAIRMAN GRAYBILL: Mr. Brown.

DELEGATE BROWN: Mr. Chairman, I discussed this with my committee Chairman, and we would like to make it clear that our committee didn't put this in because we were for it. I'm violently opposed to appropriation by initiative; and I was—like Charley, I didn't know it was in that diversion fund. So we just wanted—The reason we put this amendment in was to bring it to the floor's attention that there was a conflict. I think, through—Mr. Schiltz brought it to the Chairman's attention. And I'm like Mr. Mahoney, possibly we'll have to suspend the rules; I don't think Style and Drafting can do it; but if you don't want appropriation by initiative, then I think what you're going to have to do is suspend the rules, delete that from the antidiversion bill and then delete this. But if you want initiative—appropriation by initiative, then you're going to have to leave this in; and that's the decision this body's got to make—is what you want to do with that antidiversion measure.

CHAIRMAN GRAYBILL: Mr. Dahood.

DELEGATE DAHOOD: Mr. Chairman, I think perhaps we're getting away from the purpose of the section that we approved in Revenue and Finance, and perhaps when I'm finished, somebody from Revenue and Finance can either agree or disagree with my analysis. Now, I frankly don't see any conflict. I don't think we need the section that is proposed by General Government, because I think when you construe sections, they've got to be placed together and you've got to construe them in pari materia, which is a recognized rule of legal construction to come out with the sense of what's intended. And I think what was intended, as I understood Revenue and Finance when I voted on it—it was simply this: that with respect to only one fund—that is, the highway revenue fund and no other—the people would have a right to divert part of that fund by placing the matter on the ballot and a majority of the electors approving it. I agree with Delegate Mahoney, we cannot have anything done by way of initiative or by any other means that would tend to affect the budget considerations of the Legislature. I don't think we are doing that in Revenue and Finance. I think we're saying that only in that one particular instance may the electors, in that fashion, indicate they want part of that fund diverted. That, in my judgment, would not in any way upset the budget considerations of the Legislature. And I would like to have Revenue and Finance tell me whether or not that analysis is correct.

CHAIRMAN GRAYBILL: Mr. Rygg.

DELEGATE RYGG: Mr. Chairman, of course, we're getting into a legal area. What I would like to suggest—if it's in order, I would like to suggest that we pass this Section 4 until, say 2:00 p.m. this day and that, personally, I think it would be all right to take this initiative part out of our Section 6, but I would like to have the opportunity to meet with our committee and see if they would agree on that. And that would be my reason for asking this: to give us a little time during the noon hour and maybe thresh this out and save some discussion on the floor. So I would move that we pass this Section 4 until 2:00 p.m. this day, if that hour is in thinking with yours.

CHAIRMAN GRAYBILL: Mr. Rygg has a motion to pass Section 4, substitution motion for Mr. Harper's motion to delete. Is there any discussion?

(No response)

CHAIRMAN GRAYBILL: All in favor of passing Section 4 until 2:00 p.m.—it has to be till 2:00 p.m.—it has to be till a time certain under the rules—all in favor of passing Section 4 till 2:00 p.m., say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

(No response)

CHAIRMAN GRAYBILL: The Ayes have it, and it's passed.

Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. Chairman, I move the Committee of the Whole stand in recess until 1:30 this afternoon.

CHAIRMAN GRAYBILL: The motion is to recess the Committee of the Whole until 1:30. All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Just a moment—just a moment—Opposed, No.

(No response)

CHAIRMAN GRAYBILL: Mr. Garlington, do you have an announcement?

DELEGATE GARLINGTON: Mr. Chairman, I would like to ask the members of the Ceremony Committee to meet in Room 431 up here for a brief meeting immediately upon adjournment.

CHAIRMAN GRAYBILL: Upon adjournment, the Rules—the Ceremonies Committee meet upstairs. Very well, the motion to recess has passed. We're in—

Mr. Rygg, do you want a motion—do you want the Revenue and Finance in—?

DELEGATE RYGG: Room 437, immediately on recess, please.

CHAIRMAN GRAYBILL: —437. Which one is that?—Is that education—I mean, is that Local Government?

DELEGATE RYGG: Yes, Local Government.

CHAIRMAN GRAYBILL: That's Local Government. Very well. All in—you've all voted to recess, and we are recessed.

(Convention recessed at 12:30 p.m.—reconvened at 1:50 p.m.)

CHAIRMAN GRAYBILL: The Committee will be in order. The Committee will be in order. Very well, members of the committee, before lunch we were considering Section 4. We moved to pass Section 4 until 2:00 p.m. It isn't quite 2:00 p.m., but it's nearly 2:00 p.m. Perhaps we can start the discussion there so that we don't have to go on to something that we're not all thinking about. The Revenue and Finance Committee has met during the lunch hour, and I understand that Mr. Rygg wishes to be recognized.

Mr. Rygg.

DELEGATE RYGG: Mr. Chairman, I'd like to speak on a point of personal privilege, if I may. Our committee, of course, met because we had to clear up what our actual reasoning or thinking was behind the wording in there—and sometimes what you think and what the words are don't agree—but we have come to the conclusion that we are in support of Mr. Harper's motion to delete, and we feel that if we can, probably like Mr. Dahood did this morning, read into the record our thinking on our terminology, that actually the two sections can stand as they are without conflict. Originally it was not the committee's thinking that the initiative of the people was to provide for the appropriating of funds or revenues, but our idea was that if a three-fifths vote of the Legislature could not be had, then the people would have the right by initiative to direct the Legislature to use these dedicated funds for other purposes. That really is the thinking of the committee when they wrote the article. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Very well, Mr. Rygg, you'll have those comments sent to the journal and they'll be entered in the journal. Now, with that understanding, apparently it's the—as the Chair understands that, it's the sense of the Revenue and Finance Committee that they want their language left alone but that they did not mean to grant the power of appropriation to the people but only the power for the people to authorize the Legislature to appropriate. With that comment added to their committee report, we are now debating Mr. Harper's motion that the material added by the committee, when they be—when they presented their proposal today, to Section 4—namely, that the highway revenue provided for in Article blank, Section 6, shall be—nevertheless be subject to appropriation by initiative—they are suggesting that be deleted. Now, the issue is on Mr. Harper's motion to delete that language which was added to the General Government's Section 4. Is there other discussion?

Mr. Champoux.

DELEGATE CHAMPOUX: Mr. Chairman, fellow delegates, there is a point of contention in my mind. Now, if I can resolve this, I will vote for deletion; but if I can't, I will vote against deletion. Now, here's the problem, as I see it. If you look at the Revenue and Finance Article, Section 6, sub. 2, it says "such revenue may be"—now, notice the words, "may be—appropriated for other purposes by a three-fourths vote of the house of each members—three-fifths vote of the members of each house of the Legislature or by initiated measure—approved by a majority of the qualified electors". Now, the key words there, it seems to me, are "may be" and "by initiated measure approved by a majority of the qualified electors". Now, that section, to me as I read it, gives the right. Okay, now, if you go to the general education—the General Government, Section 4, it says: "The people may enact laws by initiative on all matters except"—now, again, there's the key word—"appropriations of money and local or special laws prohibited by this Constitution." Now, it seems to me that on the one hand we are given the right; and in this section, it's taken away from us. If you put the amendment in, then it comes in agreement when it says, "The highway revenue provided for in Section 6, sub. 2, nevertheless shall be subject to appropriation by initiative." Now, what happens if you take this out? Well, then, both of these sections, as I see it, are in conflict. Now, if they are in conflict, and I—if somebody can convince me that they aren't, I'd be willing to accept it—but if you take this out—this amendment—and they remain in conflict, well, then, who is to resolve that conflict if we leave this as it's stated in both areas in this Constitution? I submit that the courts would be the ones to resolve that conflict, and in the process you might dilute the strength of both of those sections or bring them into question as to what we really meant here. Now, if we see the problem and the conflict is obvious to us here, then we must resolve it in this assembly. Now, the issue here, as I see it, isn't—the issue isn't whether the people have the right to appropriate money for revenue purposes by initiative. That's not the issue. Why isn't it the issue? Because we've already decided that issue by two votes when we voted for the antidiversion amendment. We've already decided that issue. That's locked up unless we want to open it up again and argue it out again, which, under the rules, we can do; but if we do that, of course, it will further weaken that antidiversion amendment. Now, having said that, if you delete this amendment, then you put this into conflict. Now, really, one of the problems may be here whether we feel philosophically whether people should have the right—the great majority of the people by initiative—to involve themselves in the budgeting process. Now, that may be a fundamental problem here. Now, we may—it seems to me we've resolved that when we voted for the antidiversion amendment. Now, maybe some of you weren't aware of this—that this thing was involved, this principle; but that's the way, as I see it; and to leave this unresolved here means that we have the conflict and it's going to be left up to the court. So I say, "Leave the amendment in if you want to keep appropriations by initiative of the people, and if you don't, take it out." But if you do that, then it's going to open up the antidiversion amendment, Section 6, into question, and something then has to be done with that. That's the way I—that's my problem. Thank you.

CHAIRMAN GRAYBILL: Mr. Aasheim.

DELEGATE AASHEIM: Mr. Chairman and delegates. I concur wholeheartedly with Mr. Champoux's explanation of this whole matter. I think if we leave this amendment in, there will be no doubt about our intent. I did not and do not agree with the idea in the Revenue and Finance Section; but as long as it's there, let's leave it there; and in order to keep everything clear, let's leave this amendment as it is and then there will be no question in anyone's mind what our intent is.

CHAIRMAN GRAYBILL: Mr. Dahood.

DELEGATE DAHOOD: Mr. Chairman. I was satisfied with the explanation that Chairman Rygg presented to the delegates, and if that explanation is not going to resolve the situation, then I think we'd better take another look at exactly what we're doing here. If we're going to leave it the way it is, the question then, becomes—let's assume that a revenue measure for an appropriation is initiated by the people. Let's take two budgetary periods, '73 and '75, so the budget is passed, let's say, in '73, and then there's an initiative by the people diverting some of the highway funds for a particular special purpose. We know that we can't back up to the '73 budget—that's already balanced, based on certain revenues—so then it has to go into the budget that is going to be next considered by the Legislature, and we're saying to the Legislature, "We've already made a diversion with respect to income, and that is set aside; now build the rest of the budget around it." I think we're taking a power away from the budget-making body that I don't think the people want us to do, and I think it tends to interfere with the fiscal integrity of the state. I think our forefathers knew what they were talking about and what they were writing about when they wrote in the first Constitution that appropriation matters shall never be subject to any type of action by the people by way of initiative. Now, as I gathered from the comments of the Chairman of Revenue and Finance, what's in subsection 2 of Section 6 is merely this: that the people may indicate to the Legislature that they may—that they want a diversion to take place, and then the Legislature that meets after that particular expression by the people will then decide just exactly how they're going to fit that into the general overall budget. If that explanation isn't correct—much as I dislike suggesting this—then I think we'd better recognize that we've made a mistake with respect to the fiscal integrity of the state and we'd better take that particular provision of subsection 2 of Section 6 out of Revenue and Finance and delete the sentence that we're talking about in Section 4 of General Government. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Romney.

DELEGATE ROMNEY: Mr. Chairman, I support the delegate from Deer Lodge. I don't see how in the world people are going to use this crazy section anyway, but it can cause all sorts of trouble and it can do little, if any, good. I don't see why it can—the Harper amendment to delete cannot be accepted and then the Convention suspend the rules and take up the Revenue and Finance and eliminate that last phrase. I don't think that is what any of us thought we were doing anyway; and then, as far as anyone being afraid to opening up the section now, I personally was against the thing, but after being run over by the locomotive and the whole bunch of cars afterwards twice, I'm quite sure that we—there would be no disposition on the part of anybody to go any farther. I support the Harper amendment.

CHAIRMAN GRAYBILL: Mr. Loendorf.

DELEGATE LOENDORF: Mr. Chairman, I think we could debate this matter all day, and I agree with Mr. Dahood that I'm a little concerned here about saying one thing in the Constitution and then having to explain that to the people by saying, "Well, there's something else in the record that makes that mean something that it doesn't say there"; and therefore I'm going to move, at this time, as a substitute motion, to suspend the rules so that we may consider deleting the language in Section 6, subsection 2, of the Revenue and Finance Report Number 7. And that language I would like to delete is on—found on page 6, lines 12 and 13; and I would make this amendment.

CHAIRMAN GRAYBILL: Mr. Loendorf, the Chair is going to rule you out of order on attempting to suspend the rules on a section that we're not debating. Now, I have already explained to this body once today that the people that want to amend it to take care of the Clerk of Court will have an opportunity to suspend the rules, but the time to suspend the rules on something in the Judicial Article is not while you are in the middle of debating the General Government Article. Now, we'll dispose of the Harper amendment one way or the other; and if you want to suspend the rules to change the Judicial Article, you can get in line with the people this morning. I'm not going to stop you from doing it, but I'm going to oppose doing it in the middle of the debate on General Government. Even though I see it's obviously apropos, it just seems to me we must follow the rules. Now, maybe you—If you care to challenge the Chair's ruling, go ahead.

DELEGATE LOENDORF: Yes. I'm not going to challenge the Chair's ruling, but that makes it awful difficult, it seems to me. This question has to be determined before we can determine Harper's amendment, so—okay, someone says No. I support Harper's amendment anyway.

CHAIRMAN GRAYBILL: Mr. Mahoney.

DELEGATE MAHONEY: Mr. Chairman. This brings up another question to me, and I might be wrong, but say that after we pass the Constitution and the people—now I have made—and so that they can have an amendment by initiative or by signatures—now, if this gets in in two spots, it will be—they'll have to go out and have two different amendments, as I understand, to try and arrive at the same thing. Now, if nothing else, if this Convention will not go any further, let's take this out of this article, so then the people won't have to go out and amend two articles of the Constitution when they try to amend this out, because I am sure that if this article is left this way, there will be an amendment submitted very quickly after this Constitution is adopted and—because if we don't, the people are going to find an awful lot of people will certainly not support the Constitution. I'd like to see it left, at least, if nothing else—and I said on this floor this morning and I'll repeat it again—I wish to apologize to this Convention for not noticing this earlier. Then I think we could have had it better discussed on this point; and I'm going to take the blame for it. And I do think that this Convention—it won't hurt us to have a little confession of the soul and say we made a great mistake here and we're entitled to one in all the time we're at this Convention. We're entitled to one mistake, and I'm sure that the press won't ridicule us too much if we just honestly come out and we come to the point, if the majority—and I'll certainly support them to reconsider and limit it the same as we've limited the other—we did this in our other articles, right down definitely to a point—and say this is the only thing we're going to reconsider if we wish to take it out of that article. I'm willing to go that far, but to get a compromise here—and let's don't stand on protocol, let's don't do anything. Let's come out and send a document to these people. So, if you can't go for the suspension of the rules, please take this out so we won't make it tougher on the people to amend the Constitution, because I'm sure they're going to want to do it—letting appropriations by initiative would be terrible. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Aasheim.

DELEGATE AASHEIM: Will Mr. Mahoney yield to a question?

CHAIRMAN GRAYBILL: Mr. Mahoney?

DELEGATE MAHONEY: I'll try.

DELEGATE AASHEIM: Mr. Mahoney, if we pass the Harper amendment, then you will agree to suspend the rules for the purpose of striking out, in the Revenue and Finance Article, this terminology: "or by initiated measure approved by a majority of the qualified electors"?

DELEGATE MAHONEY: I'll agree to that and limit it to that, so there's no other part of it's going to be open; and we have precedents for that in this body.

DELEGATE AASHEIM: Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Aasheim.

DELEGATE AASHEIM: I will also go along with the Harper amendment with this supposition that we can suspend the rules and delete this section from the Revenue and Finance Article.

CHAIRMAN GRAYBILL: Mr. Aasheim, you have confused the Chair. I don't know about the rest of us. It would seem to me that, if you and Mr. Mahoney agreed to do that, you would strike Mr. Harper's amendment—or you would support Mr. Harper's amendment—is that what you mean? Very well, I understand.
Mr. Champoux.

DELEGATE CHAMPOUX: Would Chairman Sterling Rygg submit to a few questions, please, sir?

CHAIRMAN GRAYBILL: Mr. Rygg.

DELEGATE RYGG: (Inaudible)

DELEGATE CHAMPOUX: Mr. Rygg—Sterling, so we can get this cleared up in everyone's mind here, so that there isn't any confusion and we—I don't agree with Charley Mahoney. I was aware, when I voted for this, exactly what we were doing, and I'm sure a lot of other people in this assembly were aware of what they were doing about this. However, I will submit that it could raise a number of problems. I will agree with that. Now, somebody had to put that in that section. Now, who did it in the committee and for what reason? Surely, the committee debated this.

DELEGATE RYGG: Well, we put it in there. Apparently we weren't too careful of the wording. We weren't aware of that. I don't know who put it in the committee. I can't tell you that, but it was put in there with the thinking that if the three-fifths vote was not gotten in the Legislature, then the people would have the right to ask the Legislature to use these funds for other purposes. I can't name the man; I don't know who it was. But that's—that was the thinking of the committee; that's why it went in there.

DELEGATE CHAMPOUX: Now, when you—may I ask another question, please?

CHAIRMAN GRAYBILL: Yes, sir.

DELEGATE CHAMPOUX: When you did discuss this, did you think of it in terms of specific appropriations, or just simply opening it up for general appropriations?

DELEGATE RYGG: Well, we had no thought at all of having the people appropriate the money. That wasn't our thinking at all. Our thinking was that they could direct the Legislature to divert this money into—for other purposes than highway purposes. Nothing specific, no.

DELEGATE CHAMPOUX: May I make a few comments, sir?

CHAIRMAN GRAYBILL: Mr. Champoux.

DELEGATE CHAMPOUX: Again, then —it seems to me, then, that what we're debating here is whether we want to accept the philosophy of the people to appropriate money by initiative. Now, this could be, as Mr. Dahood said, could result in a lot of problems, and I think that's the major point. Thank you.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, members of the committee. I object to the idea where Mr. Aasheim and Mr. Mahoney can make some kind of a deal and I'm supposed to go along with it, and I'm not going to. If we suspend the rules in order to do this, we ought to get back—and if we're going to make any deals, we ought to get back to what the committee intended, which was that the people can require the Legislature to do what that thing says. And that's what you said in your—was your intent, and I'm not party to any deals between Aasheim and Mahoney, I'll tell you that. (Laughter)

CHAIRMAN GRAYBILL: Mr. Furlong.

DELEGATE FURLONG: This morning, Delegate Dahood got up and, in response to some newspaper material, specifically stated for the record that the provision in the Bill of Rights did not mean to limit, in any intent, no-fault insurance for the State of Montana. The Revenue and Finance Committee did not intend that the people appropriate money, per se, when they wrote that in there. They did intend that the people, by initiative by a majority of the people, could direct the Legislature to use the money for purposes other than stated in the Constitution; and I submit to you that if we accepted Delegate Dahood's explanation this morning—and I think we accepted it in good faith that there was no intent—I think, by the same token, we can accept the same kind of reading into the record this afternoon that it was the intent of the Revenue and Finance Committee to give the people by initiative—it's still a majority of the people, 51 percent—that we give them by initiative the right to direct the Legislature to use or appropriate highway revenues for purposes other than specifically stated in the Constitution. And I would like the delegation to support the Revenue and Finance position as they supported Delegate Dahood's proposal this morning.

CHAIRMAN GRAYBILL: Mrs. Eck.

DELEGATE ECK: I think that we're speaking of two different things here, because I believe that our article which Delegate Dahood spoke about this morning clearly did not say, and I think that the lawyers in the body who have looked at it could see no way it could be interpreted to say, that it prohibited no-fault insurance. The difference here is that, no matter what the intent of the committee was, that the provision clearly does say that this money may be appropriated by initiative. I can't see that we have this much of a problem. I think that if we go ahead and delete the provision from the General Government Article, accept Harper's amendment, I think that it's quite obvious that the group will agree to suspend the rules to go back and make the change we need. I don't think that we can delete it with the assurance that this will happen, but I think that—you know, considering that we're reasonable people—we don't want to submit a document to the public which is going to have to be amended and changed, as Mr. Mahoney suggested it might be. I think we—you know, we pretty well have to risk it at this point. Thank you.

CHAIRMAN GRAYBILL: Mr. Habedank.

DELEGATE HABEDANK: I would like to ask a question of the Chair. I think the Chair has correctly ruled in regard to Mr. Loendorf's motion, particularly in respect to what was done otherwise. However, I think the real question that we're faced with is: you cannot properly vote on a motion to delete, assuming that this body is going to do something else in regard to the Revenue and Finance measure. And would it be in order to bring this matter to a head, out of context where it doesn't belong, but so we get one—the thing that should be decided first—decided—to challenge the ruling of the Chair and then see if we could get the Revenue and Finance Article ended and then go back to the other? Would the court—would the Chair entertain—would a challenge of the Chair's ruling affect that? That's what I'm trying to get at.

CHAIRMAN GRAYBILL: Well—

DELEGATE HABEDANK: I think the Chair's ruling is correct. I just don't want it to go the way the Chair—

CHAIRMAN GRAYBILL: You'd like to do it incorrectly, because it's easier?

DELEGATE HABEDANK: Yes. (Laughter)

CHAIRMAN GRAYBILL: Well, maybe the Chair would, too. The Chair is bothered by one thing. And I've listened carefully to the debate, and without entering into the debate, I would like to observe that you're really talking about three things, and not two things, out there. Some of you want to leave it as it is, with the Harper amendment in or out; some of you want to go back and change the antidiversion section; but when you get that group that wants to go back and change, some of you want to just knock out the words "initiative" and others of you want to say what the committee says it meant. And there's two things—there's two possibilities back there—and I think it's the fact that there are two possibilities when you get Section 6 opened that bothers the committee and a lot of other people. And, you know, you really are not of one mind when you get it opened, and I think that's what's bothering a lot of people about opening something that we don't know what we're going to do with when we get it open. We not only don't know whether we're going to go back and open it, Mr. Habedank—we don't know when we get it opened what we're going to do; and that's the problem. That's why the Chair is a little reluctant to—out of order and to make it easier—blow the lid off.

DELEGATE HABEDANK: I agree with the Chair as to what can happen, but whatever is decided there then, you know, it's decided and you can govern the other section accordingly. And if we're going to open it, it's my feeling we might just as well open it now and whatever way the lid blows off, that's the way it's blown; and then we can govern ourselves correctly in connection with the General Government Article.

CHAIRMAN GRAYBILL: I'm sure we'll hear some more debate.

Mrs. Babcock.

DELEGATE BABCOCK: Mr. Chairman, would it be possible to segregate this section from the Committee of the Whole report and—

CHAIRMAN GRAYBILL: There's a rule against segregation in the Committee of the Whole.

Mr. Harbaugh.

DELEGATE HARBAUGH: Mr. Chairman. I'd observe there's a fourth thing to add to what you've suggested that's in evidence here, and that is that there is a real reluctance on the part of some of the delegates to open up one article that we've already passed, because they see that this might lead to opening up other articles.

UNIDENTIFIED DELEGATE: True.

DELEGATE HARBAUGH: Now, I submit that for some delegates this might be an overriding consideration, and I don't think it ought to be. I don't think any of these articles are sacred. I think that any of them can be considered again, as many times as we want to do it, as long as we want to stay here; and I don't think that we should be so insecure about some little thing that we've got locked away in some article that we're afraid that this body might open it up and take it out of there. So, I would speak in favor of the motion to delete and take it from there.

CHAIRMAN GRAYBILL: Mr. Martin.

DELEGATE MARTIN: I speak in favor of Delegate Harper's motion to delete, but for a different reason, and that was the original reason that Delegate Harper talked about. Section 4 says that the people may enact laws by initiative on all matters except appropriations, and then we turn around and have an amendment: "The highway revenue provided for in Article blank, Section 6, shall nevertheless be subject to appropriation by initiative". Do we mean what we said in the first sentence, or are we going to change that? I think we ought to get—delete this and go from there.

CHAIRMAN GRAYBILL: Mrs. Reichert.

DELEGATE REICHERT: Mr. Chairman, I rise in support of Delegate Harper's motion to delete, and I think that the Constitutional Convention delegates in 1889 stated so simply what we've attempted to state when they said that the people reserve to themselves power to propose laws and to enact or reject the same at the polls, except as to laws relating to appropriations of money. Now, this is what we intended in our Legislative Committee when we considered the initiative and the referendum, and I think this is what was intended by Delegate Etchart's committee, and I think that the intentions of the Finance Committee was—the intention was honorable, and I think it's a matter of semantics and the words "by initiated measure" are the words that are causing us all this difficulty. I remember discussing this on the floor. It didn't seem to create much difficulty then, because the intention was expressed. Perhaps the committee—the Revenue and Finance Committee—could reword this particular phrase, this section, so that we would not have this difficulty. They're not talking about appropriations, and I think that that's clear; if only they could express it in a clear manner, there would be no problem if we follow Delegate Harper's advice and delete this reference in this particular article.

CHAIRMAN GRAYBILL: Mr. Choate.

DELEGATE CHOATE: Mr. Chairman, it might be worth pointing out that in the rationale on the Revenue Committee's Proposal Number 7, when they come to a discussion of this particular subject, the only thing they refer to there is the diversion of it by the Legislative Assembly. There's no mention made in their rationale as to initiative. It says: "The proposed section permits diversion of earmarked funds to other purposes if each house of the Legislative Assembly, by a three-fifths majority, approves such expenditure." In other words, the primary responsibility for review, assessment and, eventually, allocation of highway funds rests with the Legislature. That body is free to change the earmark. That's all it says. So that the record in this instance, in their report, is not very clear as to the initiative end of it.

CHAIRMAN GRAYBILL: Mr. Rygg.

DELEGATE RYGG: In reference to that, I agree that you're right, but it does say there, and eventually allocation of highway funds rests with the Legislature. So if you take that one, really that would supersede any mention of the initiative, because we do say here that it rests with the Legislature, so while we haven't said it in the words you say, I do believe we say it with that one sentence.

CHAIRMAN GRAYBILL: Mr. Dahood.

DELEGATE DAHOOD: Mr. Chairman, I think we're all after the same objective. Right now we're stumbling over procedural blocks, and it may well be that I'm going to be ruled out of order, but at this time, I move that the rules be suspended for one purpose and one purpose only: to determine whether or not the words from Revenue and

Finance reading "or by initiated measure approved by a majority of the qualified voters" should be deleted. I so move.

CHAIRMAN GRAYBILL: Now, before the Chair rules on your motion, Mr. Dahood, the Chair wants to make a couple of inquiries.

Mr. McDonough, you did some of the drafting in Revenue and Finance. Can you put together language which would—Mr. Rygg and you—Mr. Rygg has explained what the committee meant. Can you put into language that can be put into Section 6 what the committee meant?

DELEGATE McDONOUGH: Yes, sir.

CHAIRMAN GRAYBILL: In other words, you can do that?

DELEGATE McDONOUGH: I think we can, but we'll open up all of subsection 2. But I think it's—we can put in language to the effect that it may be appropriated by the Legislature for other purposes by a three-fifths vote or the people, by initiative, can authorize the Legislature to appropriate money to other purposes, which means, then, that if by initiative—the—if the initiative passes, the Legislature can appropriate money to other purposes, then, by a majority vote. Is that—I think that's what the intention of the committee was by this language.

CHAIRMAN GRAYBILL: Mr. Schiltz, do you have a comment?

DELEGATE SCHILTZ: I have a comment, Mr. Chairman. I have difficulty between the words "require" and "authorize". I think if the people took this action, they would be requiring the Legislature. I would propose that if that—if Mr. Dahood's motion prevails and we do undertake this amendment, that after the word "electorate", we add the words "require the Legislature to appropriate" and then strike "may be appropriated" on—after that.

CHAIRMAN GRAYBILL: I don't know where you're amending. Are you in General Government or Judiciary?

DELEGATE SCHILTZ: No, I'm in—No, I'm in Revenue and Finance—

CHAIRMAN GRAYBILL: I mean Revenue and Finance. All right, would you explain that again?

DELEGATE SCHILTZ: —in Helena, Montana. After the word "electorate" in that Section 2, add the words "require the Legislature to—"

CHAIRMAN GRAYBILL: After the word "electors"?

DELEGATE SCHILTZ: Well, I guess I'm in the original section and not the right one.

CHAIRMAN GRAYBILL: Well, I'm using the one you've already corrected for me, Mr. Schiltz.

DELEGATE SCHILTZ: I know, but I couldn't find that one.

CHAIRMAN GRAYBILL: I guess we're both in trouble.

DELEGATE SCHILTZ: I think after the word "electors"—somebody has it here—all right—Oh, I am in trouble, aren't I? I'd better sign off for a minute.

CHAIRMAN GRAYBILL: Yes, I think you'd better. Mr. Dahood, the Chair's problem—I see your problem, and I'm willing to try and work it out here, and I agree with Mr. Habedank that it's—it would be easier to work it out. The Chair is—I want to be cautious on opening up Section 6, sub. 2, and so the Chair is interested, if possible, in opening it up in the most restrictive way possible. I don't want a 4-hour debate on antidiversion this afternoon if I can help it, so the Chair would defer to Mr. Rygg or Mr. McDonough, if either of them cared to make a motion to suspend the rules for the specific purpose of replacing certain language with other language. Now, when that's been done, if they'll do it, if you want to try and make it wider than that, you can. But, in other words, I would like to take the narrowest version first, and then if others don't like that, they'll have to widen it and they'll have to get a majority to go with them.

Mr. Furlong, for what purpose do you rise?

DELEGATE FURLONG: Mr. Chairman, to ask a question.

CHAIRMAN GRAYBILL: Very well, ask it.

DELEGATE FURLONG: If the body has accepted the intent of the Revenue and Finance Committee as it has been expressed here—and apparently they have, at least twice—my question is, cannot Style and Drafting actually then incorporate the intent of Revenue and Finance without really making a substantive change?

CHAIRMAN GRAYBILL: Well, I think that the thing has gone so far and there's so much question about what the real intent is that we'd better either clear it up by language or agree not to clear it up. The Chair would entertain a motion, to get at this, from the Revenue and Finance Committee, either Mr. Rygg or Mr. McDonough, that would suggest suspension of the rules for the specific purpose of deleting certain language from 6, sub. 2, and putting other language into 6, sub. 2, which language you would state. Now, if that—that's the narrowest I can conceive it. Then, if somebody wants to move to make it broader, why, we maybe can—maybe they can do that.

Mr. McDonough, do you understand me? Mr. McDonough—

DELEGATE McDONOUGH: Mr. President. I'm not sure I can make it at this time, though—to put the specific additional wording in. Well, I move that we suspend the rules for the specific and limited purposes—purpose only of reconsidering subsection 2 of Section 6 of the Revenue and Finance Article; such limited and specific purposes being striking the last 12 words from said subsection 2—

UNIDENTIFIED DELEGATE: Period.

CHAIRMAN GRAYBILL: No, the Chair won't accept it if he says "period", because then he's changed the meaning of the committee.

DELEGATE McDONOUGH: No, I didn't say "period" yet.

CHAIRMAN GRAYBILL: Well, I hear a lot of help. Mr. McDonough has the floor.

DELEGATE McDONOUGH: —and substitute in lieu thereof "or by initiated measure approved by a majority of the qualified electors, require the Legislature to appropriate such revenue—"

CHAIRMAN GRAYBILL: "Or by initiative measure approve by a majority of the electors" require what?

DELEGATE McDONOUGH: "—the Legislature to appropriate such revenue for other purposes." Could I restate the motion?

CHAIRMAN GRAYBILL: Yes.

DELEGATE McDONOUGH: Mr. President, I move that we suspend the rules for the limited and specific purpose only of adding to subsection 2 of Section 6 of the Revenue and Finance Article, after deleting the period, "require the Legislature to appropriate such revenue for other purposes".

CHAIRMAN GRAYBILL: Very well, now, the Chair understands the situation to be this. Why don't you listen till we've got it stated; then we'll discuss it. At present, the subsection 2 of Section 6 of Revenue and Finance says: "Such revenue may be appropriated for other purposes by a three-fifths vote of the member of the house of each Legislature or by initiated measure approved by the majority of the qualified voters." Now, the Revenue and Finance Committee proposes to add the words—add a comma and say "to require"—or "requiring the Legislature to appropriate such revenue for other purposes". The purpose of this amendment would be to make clear what the Revenue and Finance Committee meant; namely, that the initiative could require the Legislature to utilize highway funds but that it could not determine how they were to be appropriated or in what amounts. It merely would require the Legislature to go ahead and use the three—the highway funds. In other words, it limits the initiative measure to directing the Legislature to break the nondiversion, but it does not tell the Legislature in what measure or what nature to do that. Is that—have I correctly characterized your amendment? Yes?

DELEGATE McDONOUGH: One more check.

CHAIRMAN GRAYBILL: Mr. Furlong, I have correctly characterized your amendment? This amendment?

DELEGATE FURLONG: Yes, but in some of your comments, I think perhaps you went a little far when you said that—In other words, let me state it this way. I think the people at any time, under this section, by initiative—if you carry out the intent of the Revenue—would be that they may, in fact, direct the Legislature by the initiative for a specific purpose, because—

CHAIRMAN GRAYBILL: They can direct the breaking of the nondiversion for a purpose, but they can't appropriate—

DELEGATE FURLONG: Right. I agree.

CHAIRMAN GRAYBILL: —the money or decide the amounts and so forth, right?

DELEGATE FURLONG: Yes, but I felt

you were limiting it, that they could just tell them "you can now divert" and give them no other direction. I would think that initiative could give a specific direction to the kind of diversion that it had in mind.

CHAIRMAN GRAYBILL: All right. And in this sense, the initiative that the Revenue and Finance Committee proposes is not an appropriation initiative; it's just an initiative directing the Legislature that it can break the nondiversion rule. Now, if everybody understands that, that's the purpose of Mr. McDonough's amendment to clarify the language of the Revenue and Finance Commission's—Committee's meaning on Section 6, sub. 2. Now, for that purpose—and we don't have to do—we don't have to strike the 12 words; we use the 12 words and continue to explain them. For that purpose, the Chair will allow Mr. McDonough's rule to suspend the rules.

I take it, Mr. McDonough, that if you are successful in suspending the rules, someone will have to move to reconsider along the same lines and then we'll have to reconsider and do it. Is that correct?

DELEGATE McDONOUGH: Yes, sir.

CHAIRMAN GRAYBILL: All right. Now, then, with that picture in mind, I'll be glad to hear your comments.

Mr. Harbaugh.

DELEGATE HARBAUGH: Mr. Chairman, is an amendment in order?

CHAIRMAN GRAYBILL: An amendment to what they've done?

DELEGATE HARBAUGH: Yes.

CHAIRMAN GRAYBILL: An amendment—an amendment—the Chair will rule that since they are stating the language—I'm merely allowing them, if possible, to clean up their language—but since they have stated the language, an amendment is not going to be in order on this motion. Now, if you want to make another motion that's broader, you make it, and we'll see whether this body will suspend the rules for your motion. But I'm trying desperately not to open it up unless you can get 51 percent to do it. So, the Chair would rule that the purpose of this suspension is only to add the words that they said and not to add any amendments that they said. It's for that purpose only. It's either going to win or lose. That's the Chair's intent at the moment.

DELEGATE HARBAUGH: Thank you, Mr. Chairman. I—The amendment—no amendment, apparently, is in order at this time and therefore I think I would have to vote against the motion that is before us, because I think it's very obvious that we've backed into an alley and we can't turn around and what we need is some elbowroom. And I think we ought to open this section up so that we can work on it, and I'll vote against the motion.

CHAIRMAN GRAYBILL: Okay. Mr. Champoux, do you have a question?

DELEGATE CHAMPOUX: Yes, sir. You know how I get confused on Saturdays—and I—today is Saturday—and I've been hanging around with Charley Mahoney too much. But, two questions, if I may, sir. One—doesn't previous—do not previous motions take precedence? Don't we have another motion on the floor? I'm questioning the order here. And the second thing is, we're approaching this in terms of—as I see it, in terms of opening up this section that's finally gone through final reading. Is there anything that we could do with the general government thing to reword it to the extent that would show the intent of the Revenue and Finance Committee in terms of this Article 6, subsection 2? Two questions then, sir, if I may.

(Pause in proceedings to talk things out in the Chair)

CHAIRMAN GRAYBILL: Mr. Champoux has asked two good questions. Now, the Chair would like everybody to understand that all I'm trying to do is approach this carefully. We're suspending the rules, and obviously the rules—or the Revenue and Finance Committee has a position, and obviously others have a position, and we have a problem. And you may do anything, eventually, but we're going to try and do it step by step here. And Mr. Habedank raised an issue. The Chair ruled that motions to suspend the rules were out of order in the middle of the discussion of General Government, and no one challenged him on that. But Mr. Habedank pointed out that that still left us with a very bad problem, and so the Chair has consider—is considering what to do in that regard. And the next thing the Chair did was then ask the Revenue and Finance Committee if they could clarify their language; and when I found out they could, I then asked them if they could state a motion to suspend the rules within only that clarification so that we wouldn't get on three or four other things. Now, that's where we stand. But Mr. Champoux is correct that Mr. Harper's motion to delete is pending, and we've now checked the rules, and this is the way the situation stands: on Committee of the Whole debate—and, for that matter, in the Convention as a whole—a motion to reconsider is in order. Nothing is said one way or the other about the motion to suspend the rules—which, obviously, in this case is for the purpose of reconsidering but is technically not to reconsider—so the Chair could probably go either way and say that a motion to suspend the rules is obviously to reconsider, or it could go the other way and say that it isn't technically a motion to reconsider. Mr. Harper, you came in late. Are you aware of the quandary that we're in? How do you like it? (Laughter)

DELEGATE HARPER: I'd like it just fine if we can do the sensible thing about resolving it, and I'd be glad to tell you what that is, if you ask me. (Laughter)

CHAIRMAN GRAYBILL: Well, the Chair is aware of—it could do two things. It could let you withdraw your motion so that the motion to suspend the rules would be in order—except that I would then be faced with Mr. Etchart's motion to move the whole section, and I could probably get him to back off, too—or the Chair could move—could rule that a motion to suspend the rules is in fact a reconsideration in this case and go the other way. Or, third, the Chair could tell you all to wait till you're through discussing General Government and go back and handle this tomorrow.

DELEGATE HARPER: If the Chair would suffer a suggestion from the floor; why don't you just do suggestion Number 2, and then we'll be right going? Just consider this as a motion to reconsider and let us act on this and then we can—or if you want us to back off, I'm willing to back.

CHAIRMAN GRAYBILL: No, I think maybe your suggestion is just as good.

DELEGATE HARPER: Thank you.

CHAIRMAN GRAYBILL: Mr. Mahoney, do you have any direction for the Chair?

DELEGATE MAHONEY: Mr. Chairman. I would like to see—but I think it would be—look quite funny on the journal to be in the middle of this and then move to reconsider another branch. Now, if we just got the motion to get out of General Government and get over on that, it would be all right, but I'd like to see that we get off from—out of this one, and I think this is—probably is technical, but I think it does make it easier. It would make it much easier for the Chair to make a ruling, and I think the Chair is being very fair in this ruling, and I think you're really going over—and I mean, I question the right to suspend the rules and a motion is pending would be exactly in order. Now, if Mr. Harper withdraws his motion, then I think the nicest thing would be—to do is just get off from General Government temporarily and ask to go into the other and General Orders, and then you could do it. I mean, I'm just trying to get out of one and into the other and not have two things being cluttering up the journal there; and I might be all wrong, but this is my suggestion.

CHAIRMAN GRAYBILL: Are you suggesting—are you saying that if I ask Mr. Harper to withdraw and then I ask Mr. Etchart to withdraw so we weren't actually considering Section 4 at the moment, that we could then, without objection, hear a motion to suspend the rules? Is that what you're suggesting, Mr. Mahoney?

DELEGATE MAHONEY: That we suspend the rules to go back on and get this—I'm trying to get you out of General Government back into Revenue and Finance. This is what I'm trying to do—and the record. This is what I'm trying to do, and I think that would be in order.

CHAIRMAN GRAYBILL: Mr. Brown, do you have any suggestions?

DELEGATE BROWN: Yes, I'd like to make one, too. (Laughter) I think everybody here is concerned and they know that we're trying to suspend the rules in good faith. What I would like to do is see Delegate Harper stay with his motion, and I assume that it will prevail and that part will be deleted. Then, go ahead and finish General Government, and then, at the proper time, move to suspend the rules to go back into Revenue. If the body would not do that, then we could come back to this section and put the provision back in, but let's move through General Government and trust the body to go back to Revenue and Finance and clean it up later.

CHAIRMAN GRAYBILL: Mr. McDonough, do you have a suggestion?

DELEGATE McDONOUGH: No, Mr. President, I just agree with Mr. Brown. That gives the Revenue and Finance a little more time to think about any wording they might want to add or substract to subsection 2, and the Convention can still go about its business.

CHAIRMAN GRAYBILL: Well, I'll hear Mrs. Robinson.

DELEGATE ROBINSON: I just have one suggestion; that the next time you appoint a Revenue and Taxation Committee, you ought to consider putting a woman on it. (Laughter)

CHAIRMAN GRAYBILL: So we could change our mind more easily? (Laughter) I could get—Mrs. Mansfield might go on it for me. (Laughter)

Mr. Choate, I'll hear you.

DELEGATE CHOATE: All right. I think, Mr. Chairman, I might have the only other pertinent comment that could be added to all of this. It might be that we're at the same point that this fellow was, a long time ago, on an historic occasion, when he said, "Well, outside of that, Mrs. Lincoln, how did you enjoy the play?" (Laughter)

CHAIRMAN GRAYBILL: All right, now, having been duly—

Mr. Wilson, would you like to suggest to the Chair?

DELEGATE WILSON: Yes, I would, Mr. President. I think you're on General Government, and I think you should stay there. And I think you should finish the article and then, at the appropriate time, if there is need for consideration of this article on Revenue and Finance, I have faith in this body that they would come back to it and make such adjustment as is necessary.

CHAIRMAN GRAYBILL: Mr. Dahood, would you like to instruct the Chair?

DELEGATE DAHOOD: No, Mr. Chairman. I moved to suspend the rules. I'm going to withdraw that motion. I think what Delegate Brown suggested might be the best way to take care of it. I withdraw the motion to suspend the rules.

CHAIRMAN GRAYBILL: Mr. Scanlin, do you want to instruct me?

DELEGATE SCANLIN: No, I was just going to put a question to the Chair; but if we're going to withdraw everything, I'll withdraw my question.

CHAIRMAN GRAYBILL: Well, the Chair has thought about it, and I appreciate—I really do appreciate the patience that the body has shown and the help that I've had from some of the experts in the field. I think I was right in the first place not to break this article up, and I'm going to overrule Mr. Dahood's—or Mr. McDonough's motion that I asked for—whoever it is—and I'm going to tell Mr. Habedank that I think he's absolutely right, morally, but he fouls me all up parliamentarywise, and I'm going to suggest that we finish the General Government Article and ask, if the Revenue and Finance Committee then want to, they can do what Mr. Aronow and Mr.—whoever it was this morning—wanted to do for the Clerk of Court, and we'll have them all do that all at one time and get that all out of the way. So we're going to go back to—I'm going to move that—I'm going to rule that all of these motions are out of order back to Harper. We're on Harper's motion. You're either going to have to accept it or defeat it, and then we'll clean this up afterwards. So, we're on Harper's motion unless someone wants to challenge the ruling of the Chair.

Mr. Gysler.

DELEGATE GYSLER: Mr. Chairman, I just want to say I've been looking for a long time for something of Delegate Harper's that I could support in extended debate, and I have found it. (Laughter)

CHAIRMAN GRAYBILL: Mr. Etchart.

DELEGATE ETCHART: I think you're on the right track now, and I support Mr. Harper's amendment.

CHAIRMAN GRAYBILL: All right. Mr. Kamhoot.

DELEGATE KAMHOOT: Mr. Chairman, I'm really worried at this point, because I fear I must not understand it because I'm going to have to support Delegate Harper. Thank you. (Laughter)

CHAIRMAN GRAYBILL: Do you want to change your motion, Mr. Harper? (Laughter)

DELEGATE HARPER: I'm beginning to wonder about this motion. (Laughter—applause) Maybe I didn't think it through enough. You know, there was a little paper that was passed to us the other day—I don't know from whom—"self-evaluation sheet for Con Con members". Did you see it? The last section—(e)—is on communications. You are supposed, as a Con Con member—it doesn't say Chairman—to check one of these: talks with God—this is on communication—talks with angels; talks to himself; argues with himself; loses arguments with himself. (Laughter) I will check the last and close and leave it to the body.

CHAIRMAN GRAYBILL: Mrs. Babcock.

DELEGATE BABCOCK: I just want to apologize to Mr. Harper for wanting him to build a canoe; and I'll support his motion, too. (Laughter)

CHAIRMAN GRAYBILL: Mr. Studer, what's this got to do with your motion?

DELEGATE STUDER: I just want to—if he really wants to be worried, I support his motion, too. (Laughter)

CHAIRMAN GRAYBILL: Well, very well, the Chair just having checked "loses argument with himself", I will now put Mr. Harper's motion. All in favor of Mr. Harper's motion, which is to strike the additional language that the committee added here to Section 4, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

CHAIRMAN GRAYBILL: The Ayes have it, and that language is deleted. Is there other discussion about Section 4?
(No response)

CHAIRMAN GRAYBILL: Very well, members of this committee, you have before you on your—for your consideration, on the recommendation of Mr. Etchart that when this committee does arise and report, after having had under consideration Section 4 as amended, that we recommend the same be adopted. All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: Section 4, as amended, is adopted. Will the clerk read Section 5.

CLERK HANSON: "Section 5, subsection 1. The people may approve or reject acts of the Legislature by referendum, except appropriations of money. A referendum may be ordered by the Legislative Assembly or upon petition signed by 5 percent or more of the legal voters in each one-third or more of the legislative representative districts, and the total number of signers must be 5 percent or more of the total legal voters of the state. Referendum petitions must be filed with the Secretary of State no later than 6 months after adjournment of the Legislative Assembly which passed the bill." Mr. Chairman, Section 5, subsection 1.

CHAIRMAN GRAYBILL: Mr. Etchart.

DELEGATE ETCHART: Mr. Chairman, I move that when this committee does rise and report, after having had under consideration General Government Proposal Number 12, Section 5, it recommend the same be adopted.
Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Etchart.

DELEGATE ETCHART: This section contains the procedure for the two forms of statutory referendum, as agreed upon by the General Government and Legislative Committees. This provision is parallel to the present referendum provisions as contained in Article V, Section 1, of the present Constitution. The only changes are the petition requirements, which the General Government felt should be set at 5 percent of the legal voters. Well, incidentally, this isn't a change now, because this is the way it was. But "one-third or more of the legislative representative districts" are adopted and more of the total legal voters of the state for the petition referendum, so the committee set the petition requirement for requiring suspension of enforcement of a matter to be referred at 15 percent of the whole number of legal voters of a majority of the legislative representative districts of the state, and this provision is the same as is in the present Constitution, so this is quite close to what you have in the present Constitution. It's 5 percent, in line with what we did in initiative. I think that it's been pretty well discussed and should be ready for adoption.

CHAIRMAN GRAYBILL: Very well. Members of the committee, you have before you for your consideration on the recommendation of Mr. Etchart that when this committee does arise and report, after having had under consideration Section 5, that we recommend it be adopted—subsection 1, only. All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted. Mr. Clerk, read Section 2—subsection 2.

CLERK HANSON: "Section 5, subsection 2. Acts of the Legislature referred to the people are in full force and effect unless suspended by petitions signed by 15 percent of the legal voters of a majority of the whole number of legislative representative districts of the state, in which case the law shall be inoperative until such time as it shall be passed upon at an election and the result has been determined and declared as provided by law." Mr. Chairman, Section 5, subsection 2.

CHAIRMAN GRAYBILL: Mr. Etchart.

DELEGATE ETCHART: Mr. Chairman. I move that when this committee does arise and report, after having had under consideration General Government Article Number 12, subsection 2, it recommend the same be adopted. Mr. Chairman, I covered this in my previous remarks, move for its adoption.

CHAIRMAN GRAYBILL: Any discussion?
(No response)

CHAIRMAN GRAYBILL: Very well, you've heard Mr. Etchart's motion that we adopt subsection 2. All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?
(No response)

CHAIRMAN GRAYBILL: It's adopted. Read Section 6, please.

CLERK HANSON: "Section 6. Elections. All measures referred to the people shall be voted upon at a regular biennial election unless a special election is ordered by the Legislative Assembly." Mr. Chairman, Section 6.

DELEGATE ETCHART: Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Etchart.

DELEGATE ETCHART: I move that when this committee does arise and report, after having had under consideration General Government Proposal Number 12, Section 6, it recommend the same be adopted.
Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Etchart.

DELEGATE ETCHART: This section is self-explanatory and should be noncontroversial. I urge your adoption.

CHAIRMAN GRAYBILL: Is there any discussion of Section 6?
(No response)

CHAIRMAN GRAYBILL: You have heard Mr. Etchart's motion. All in favor of Section 6, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted. Section 7.

CLERK HANSON: "Section 7. Legal voters. The number of legal voters for each legislative representative district and for the state is determined by the votes cast for the office of Governor in the regular election immediately preceding filing of petitions for initiative or referendum measures." Mr. Chairman, Section 7.

CHAIRMAN GRAYBILL: Mr. Etchart.

DELEGATE ETCHART: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration General Government Proposal Number 12, Section 7, it recommend the same be adopted.
Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Etchart.

DELEGATE ETCHART: This section is also self-explanatory. The only thing I would like to point out here is that we inserted the language "for the office of Governor" instead of just "for Governor" and—so that there couldn't be any question that the votes cast would be just for the man instead of for the office and this language would cover the votes cast for all of the candidates—or the two candidates running for Governor.

CHAIRMAN GRAYBILL: Any discussion?
(No response)

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Will the gentleman, Mr. Etchart, yield, please?

CHAIRMAN GRAYBILL: Mr. Etchart?

DELEGATE ETCHART: Yes.

DELEGATE SCHILTZ: Mr. Etchart, what is the intent of your committee with regard to the term "regular elections"? You mean "general election", or do you mean any regularly held election, or what?

DELEGATE ETCHART: I think this would be a general election.

DELEGATE SCHILTZ: Would the gentleman yield?

DELEGATE ETCHART: Yes, sir, I yield.

DELEGATE SCHILTZ: Would you mind if Style and Drafting inserted "general" in there?

DELEGATE ETCHART: We would have no objection.

CHAIRMAN GRAYBILL: Is there other discussion of Section 7?
(No response)

CHAIRMAN GRAYBILL: Members of the committee, you have before you for your consideration, upon the recommendation of Mr. Etchart that when this committee does arise and report, after having had under consideration Section 7, that we recommend it be adopted. All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: Section 7 is adopted. Section 8.

CLERK HANSON: "Section 8. Gubernatorial veto. The Governor does not have power to veto initiative or referendum measures." Mr. Chairman, Section 8.

CHAIRMAN GRAYBILL: Mr. Etchart.

DELEGATE ETCHART: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration General Government Proposal Number 12, Section 7, it recommend the same be adopted. Mr. Chairman—Section 8; correction.
Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Etchart.

DELEGATE ETCHART: This section prohibits the Governor from vetoing an initiative or referendum. The present Constitution also contains such a provision. The committee feels one man should not have the power to overturn a decision made by a majority of the state's electorate. This is the reason for including this section.

CHAIRMAN GRAYBILL: Mr. James—Mr. Joyce.

DELEGATE JOYCE: Mr. Chairman, I just want to call to the attention of the body—I suppose everybody already knows it—that this same matter is already covered in Section 10 of the Executive Committee, which has passed, and I'm in an anomalous position. I remember one time here I insisted that something about the veto power be included in the Executive Article, even though it was in the Legislative, and I don't know if the General Government people are all that touchy or—what's the word?—proud of their work, but at any rate it is covered under Section 10, and I just wondered if they wanted it stated here again, or what's their pleasure?

CHAIRMAN GRAYBILL: Mr. Brown.

DELEGATE BROWN: Mr. Chairman, I believe Mr. Joyce is right. We wrote this article prior to the time we voted on yours, and we also took this article out of our constitutional revision, so it is unnecessary. I will now move to delete it—Section 8.

CHAIRMAN GRAYBILL: Mr. Brown moves to delete Section 8.
Mr. Mahoney.

DELEGATE MAHONEY: Mr. Chairman, might I ask either Mr. Brown or Mr. Joyce what they've said in the other article?

DELEGATE JOYCE: You asking me, Charley? I have it in front of me if you—

DELEGATE MAHONEY: Good.

DELEGATE JOYCE: I did have; where is it, Jim? Section 10 of the Executive Article says that all bills passed by the Legislature except bills proposing amendments to the Montana Constitution, bills ratifying proposed amendments to the United States Constitution, resolutions—and here are the key words—and initiative and referendum measures shall be submitted to the Governor for his signature. All those things—all bills except those shall be submitted to the Governor, and so the point is that he may not veto those.

DELEGATE MAHONEY: That's fine, Mr. Chairman; that's all I wanted. I didn't want him vetoing constitutional amendments.

CHAIRMAN GRAYBILL: Mr. Joyce, do you have anything further?

DELEGATE JOYCE: No, I don't.

CHAIRMAN GRAYBILL: Any further discussion of Mr. Brown's motion to delete?
(No response)

CHAIRMAN GRAYBILL: All in favor of Mr. Brown's motion to delete, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: The Ayes have it, and Section 8 is deleted. Section 9, Mr. Clerk.

CLERK HANSON: "Section 9. Restriction. This article is not applicable to constitutional revision as covered in Article blank of this Constitution." Mr. Chairman, Section 9.

DELEGATE ETCHART: Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Etchart.

DELEGATE ETCHART: I move that when this committee does rise and report, after having under consideration General Government Proposal Number 12, Section 9, it recommend the same be adopted. Mr. Chairman, this section is included to prevent any confusion with the initiative and referendum provisions on constitutional revision that are otherwise created in the Constitution, which was our Number 2 proposal from General Government, and we thought we should have this in there to keep the two separated.

CHAIRMAN GRAYBILL: Mr. Etchart, the Chair is confused. Explain a little more.

DELEGATE ETCHART: As you know, we provided in our constitutional revision article for amending the Constitution by initiative, and we also have an initiative provision in this article, and we wanted it clear that these provisions do not apply to the constitutional article.

CHAIRMAN GRAYBILL: I see. Is there discussion of Section 9?
(No response)

CHAIRMAN GRAYBILL: All in favor of Section 9, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted. Section 10.

CLERK HANSON: "Section 10. Recall. Laws shall be enacted to provide for the recall of all elected officials of the state and of its political subdivisions upon petition of the electors equal in number to 25 percent of the number of persons voting in the last preceding election for the office of Governor in the state or political subdivision of the official sought to be recalled." Mr. Chairman, Section 10.

CHAIRMAN GRAYBILL: Mr. Vermillion.

DELEGATE VERMILLION: Mr. Chairman, I move that when this committee does arise and report, having had under consideration Section 10 of the General Government Report Number 12, it consider the same be adopted.
Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Vermillion.

DELEGATE VERMILLION: This section on recall is quite similar to twelve other state constitutions in that there are twelve other states which have, by constitutional provision, provided for recall of elected officials. Now, I mentioned before and I maintain that we have to consider—and I consider—elected officials not the masters of the people but the servants of the people. They are the employees, in a sense, and the people have the right not only to elect these people but if, for whatever reason they deem necessary, they have—they should have the right to recall them. I would point out that this 25-percent requirement for the number of people to sign that petition is very, very high. I recall one of the other delegates, earlier in this Convention, talking about petition signing, and he remarked how tough it was just to get 8 percent to get an initiative passed in the state; and 25 percent is more than three times that number.

Also, I'd like to point out that one of the states that has constitutional provision for recall is California. Now, we've all had this pocketbook, that many of us have been reading, called *The Sometimes Government,* which rates California the number 1 legislature in the country in terms of efficiency and responsiveness to the people, and it rates Montana number 43. Well, California has a recall provision and it requires only 12 percent for all elected officials to be recalled. We are requiring 25 percent. I should point out that that 25 percent does not mean that the elected official is, in effect, fired, but that merely means he would stand for election against an opponent or perhaps some other method that the Legislature could provide. Now, there are some who suggest that if the legislators and other elected officials are going to be subject to recall, they are going to be bothered and harassed by people who are going to be bringing petitions to them and these legislators and other elected officials will be under considerable pressure, and I don't think that's true. I think that, as this body has shown, as I think the Legislature would show, that somebody suggesting that they're going to run out and get a petition is not going to threaten a legislator who can stand up [under] that kind of pressure. For the most part, as I point out, 25 percent is a very high number. In fact, I am, in a sense, liable to recall at any time, and I think anybody who is an employee working for somebody else is, in a sense, under recall—can be fired at any time—and you can live with it. There's no great problem there, so I move that we adopt this section on recall. I think it is entirely workable. I think it's something that—it's the people's right. It's not a privilege we're giving them, but a right they should have, and I think we should adopt this section and put it in the Constitution.

CHAIRMAN GRAYBILL: Mrs. Reichert.

DELEGATE REICHERT: Mr. Chairman, I rise in opposition to the majority proposal on recall. We had a lengthy discussion yesterday concerning recall and the Local Government Article. We finally resolved the issue by moving to delete this section. I feel the same reasons we gave yesterday are applicable in this case. We had considered recall at some length in our Legislative Committee before we realized that General Government was going to handle this area. Therefore, I firmly feel that we should also delete this recall section in this article.

CHAIRMAN GRAYBILL: Mr. Loendorf, you have an amendment before the Chair on this. Do you want it read, or not?

DELEGATE LOENDORF: I was of the understanding there was a minority report to delete it. Will that be offered, or not?

CHAIRMAN GRAYBILL: Well now, let's see, page 16.

Mr. Etchart, is there a minority report going to be made at this time?

DELEGATE ETCHART: Yes, sir, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Etchart.

DELEGATE ETCHART: As a substitute motion, I would move that when this committee does rise and report, after having had under consideration this article, that it adopt the minority proposal Number 2, on page 16, which is for deletion of the recall provision.

Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Etchart.

DELEGATE ETCHART: We thought the recall provision was unnecessary and a dangerous harassment that would hinder an elected official in performance of his duties. Such a provision would tend to disrupt the political processes and keep Montana in a continuous state of confusion. The intent of recall is also basically covered under the present electoral system, as elected officials are subject to recall each time their office is up for election, and we submit that this is plenty of recall, that we already have it at our regular elections, and that this section should be deleted.

CHAIRMAN GRAYBILL: Mr. Loendorf.

DELEGATE LOENDORF: Would the clerk read my motion at this time.

CHAIRMAN GRAYBILL: Will the clerk read the motion of Mr. Loendorf.

CLERK HANSON: "Mr. Chairman. I move, as a substitute motion, to amend Section 10, page 5, lines 24 through 30 of the General Government Committee Proposal Number 12, by deleting Section 10 in its entirety and substituting in lieu thereof the following: 'Laws may be enacted to provide for recall of all elected officials of the state and its political subdivisions.' Signed: Loendorf." Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Loendorf, the Chair is going to—yours is a substitute motion to the motion to delete; is that it?

DELEGATE LOENDORF: It's a substitute motion, right.

CHAIRMAN GRAYBILL: Well, I guess that will work all right. Mr. Etchart, you made a motion to delete—right?—in its entirety—so now we have Mr. Etchart's—or Mr. Loendorf's language before us on a motion to substitute his language for the deletion; and the deletion, of course, would strike out the first language. So, I'll allow two substitute motions instead of the other amendment, and so forth. Very well, the issue is on Mr. Loendorf's motion to substitute the language that has been placed before you on your desks—is that right?—

DELEGATE LOENDORF: That's right, Mr. Chairman.

CHAIRMAN GRAYBILL: —in place of Mr. Etchart's motion to delete.

DELEGATE LOENDORF: I guess it has not been placed on the desks. I—

CHAIRMAN GRAYBILL: It is not on the desks?

DELEGATE LOENDORF: I think I can explain it, Mr. Chairman.

CHAIRMAN GRAYBILL: Well, why don't I—I think they'd better write it down, then, so they know what it is, if they want to—some of them. "Laws may be enacted to provide for the recall of all elected officials of the state and its political subdivisions." That's all there is to it. "Laws may be enacted to provide for the recall of all elected officials of the state and its political subdivisions"—That language being in place of the motion to delete, the motion to delete having stricken—having proposed the striking of Section 10 in its original form on page 5.

Mr. Loendorf.

DELEGATE LOENDORF: Mr. Chairman, my motion was also a motion to delete, the same as Mr. Etchart's, but a substitution. First of all, I would like to say I support Mr. Etchart's motion. I do not believe in constitutionalizing recall. I offer this motion merely to give the delegates a third option. The first—the majority report constitutionalizes recall; Mr. Etchart's motion deletes recall from the Constitution and would make statutory law providing for recall impossible to those offices and the terms of which are created in the Constitution. The motion I propose would not constitutionalize recall but make it completely optional with the Legislature to provide for it. If it is—if recall is adopted, I think this is the best approach to take for these reasons. It seems to me, providing for recall in the Constitution creates great inflexibility. For example, the terms of various offices will be different. I would think the Legislature may not want to provide for recall for offices elected for a very short term—for example, 2 to 4 years—whereas they may want to provide for recall for people elected say, 6 to 10 years. Also, to make recall effective, I think the Legislature would want to provide that a man could not be recalled during, say, the first 6 months or the first year for the term he is elected. Certainly, you don't want to recall a legislator before he's even gone to the legislator—Legislature and begin to make decisions. That would defeat the purpose of it. Finally, putting a percentage in a constitution creates a very inflexible, and perhaps unworkable, situation. Twenty-five percent might be unusually high; might be impossible to get statewide—or virtually impossible. So, for all these reasons, I think we should leave recall up to the Legislature. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mrs. Reichert.

DELEGATE REICHERT: Would Mr. Loendorf yield to a question?

DELEGATE LOENDORF: I yield.

DELEGATE REICHERT: I wonder, when you say "all elected officials"—in your discussion, you spoke about certain groups of officials possibly coming under recall because of the length of their terms—could this somehow be considered discriminatory?

DELEGATE LOENDORF: I guess I don't follow you, Mrs. Reichert.

DELEGATE REICHERT: (Inaudible)—the Legislature states that recall is possible for certain, perhaps judicial officers. Do you think this might be discriminatory as far as some of the other public officers are concerned, not being free from recall?

DELEGATE LOENDORF: No, as long as the Legislature has good reasons for making the distinctions. In fact, certain constitutions do distinguish between various offices. For example, they often provide for recall but exempt the Judiciary; and there are good reasons for that.

CHAIRMAN GRAYBILL: Mr. Habedank.

DELEGATE HABEDANK: Mr. President, ladies and gentlemen. I would resist the proposed amendment of Jerry Loendorf. Whether or not the recall provisions of a constitution can constitute harassment or not is a question you may decide, but if it is to be allowed, then I think it is absolutely necessary that the percentage which has been put in here by the committee be retained, as otherwise, you have created a situation where the Legislature in its wisdom may be disenchanted with some particular individual—some particular official, and, through pressure at a given time, make a low percentage and then change it in regard to somebody else. And it was the feeling of the committee—and is my feeling—that if we are to have recall, the percentage should be high enough that it cannot constitute harassment and it represents a genuine desire of the people of Montana to take some person out of office. We have some people who serve for 2 years, some for 4 years, some for 6 years, and now, some for 8 years, which are fairly long terms; and for that reason and that reason alone, it may be necessary that the people of Montana have an option to recall. I would call to your attention that in the state of North Dakota, they have had recall for a long time. It has not amounted to harassment over there, and in their situation they have provided in their constitution that the petition must be signed by electors equal in number to 25 percent of those who voted at the preceding general election. The feeling of the majority of the committee was, in response to numerous petitions and people who came to us, that a recall section should be offered to this delegation for their decision, but it was also our feeling that if it is offered, it should carry a definite percentage and it should not be discretionary, as it has been suggested by Mr. Loendorf. I would, however, move to amend—when the time comes, it can be—to correct the word we have eliminated and to help Style and Drafting put "general" election in between the words "preceding" and "election", but I would urge you not to support Jerry Loendorf's recommendation.

CHAIRMAN GRAYBILL: Mrs. Robinson.

DELEGATE ROBINSON: Mr. President, I rise in support of Mr. Loendorf's amendment for most of the reasons that Mr. Habedank is against it. Most of the states that have dealt with recall have found that a blanket percentage is very—it just doesn't work. I think if you want recall, you should make it so it works. If you don't want recall—for example, Illinois has it, and to get a recall on the ballot you have to have 55 percent of the voters of the state—so, obviously, Illinois doesn't really care about recall. Kansas and California have—both have recognized that 25 percent straight across the board isn't meaningful either. They have theirs on a sliding scale. You have a 25 percent on the local level, where it's easier to get signatures, and then for at-large elections across the state, they have reduced it to 15 percent; and it's all on a sliding scale according to difficulty in ascertaining signatures on a petition. I agree in theory with recall for the very reason that it first began during the progressive era of the United States—was to try and make the people feel that they had access to their representatives. And if you'll remember, for example, in the last Legislative Session, one of the reasons that the Legislature was able to increase the term of mayor and alderman under the aldermanic form of government was that, at the same time, they instituted recall to these local officials. The notion of recall has helped increase the length of term of certain elected officials; and perhaps since we have increased the term of judges in the State of Montana to 8 years in the Constitution, recall might not be a bad idea. But I think it's very unwise, if we—if the Convention itself believes in recall, to have a blanket 25 percent, because it just has not worked in other states; and if you don't want it to work, then let's delete it completely.

CHAIRMAN GRAYBILL: Mrs. Blend.

DELEGATE BLEND: Mr. Chairman, I rise in support of Mr. Loendorf's amendment. The majority article is incompatible, as I see it, with local government. The administrative problems of determining down to precinct and ward in a local governmental unit would be time-consuming, expensive, and so on; and I think that the amendment would work much better. Thank you.

CHAIRMAN GRAYBILL: Mr. Harper.

DELEGATE HARPER: Two things, quickly. I think we ought to note. One is that when we dealt with this at length in the Local Government Article, we constantly referred to this which was being proposed in the General Government

Article; and I think almost everybody had in their mind that when they voted against that, they probably were voting against the recall motion all the way through or there wouldn't be much sense in doing what we did on the Local Government Article. Secondly, just so that—I think we ought to think this thing all the way through—let's take a look at 25 percent. Twenty-five percent of the voters of a single-member district—now, remember, a legislator runs from a single-member district henceforth if this Constitution passes. If, assuming a house of a hundred or a unicameral body of a hundred members, you have something under 7,000 live bodies in each single-member district on the one-man, one-vote theory which—I am not sure of these figures, but let's—most people around here seem to think that would produce about 3,500 voters, perhaps—registered voters—in that single-member district. If you're talking about a particular election, we hardly ever have over about 60 percent involved in elections. You may be talking about 2,000 people. Twenty-five percent of 2,000 is 500 people. Now, getting 500 signatures in one single-member district, say, in a city, is not really a tough thing to do, particularly if you have, say, one large union or one large bloc of anybodies who happen to be politically opposed to this particular person. Now, a case in point: Idaho has this. Idaho just recently, in a matter of a few months ago, recalled, in one district—someone correct me if I'm wrong on this—was it three legislators?

UNIDENTIFIED DELEGATE: Two.

DELEGATE HARPER: Two? What was the reason? These were bad people, immoral, not doing what they were supposed to do? No, they went to the Legislature and they voted to increase their salaries. They did what the Legislature is supposed to do; namely, in Idaho, to vote on the compensation for the Legislature. So, these people disagreed with that and they recalled them. And I could see this—again, I said this when the local government thing came up—as a sort of a club behind the door where a group says, "You know, we have more than 500 signatures we can produce; if you don't vote with our line, then we're going to put you into another election." And I can conceive that, in some districts, people who were not in line with one certain power bloc would just feel that they didn't even want to run under those circumstances, knowing that recall hung over them. Now—and statewide, I can see this in terms of a Governor—the percentage is so large that I don't think we'd have that kind of threat—but with single-member districts, I think we ought to bear this in mind. I think I shall vote against my friend, Mr. Loendorf's, motion and in favor of Mr. Etchart's minority proposal.

CHAIRMAN GRAYBILL: Mr. Martin.

DELEGATE MARTIN: Mr. Chairman. As the author of the recall proposal, which I hoped would be a safety valve for the protection of the people, I rise to ask you to defeat the Loendorf amendment and bury my proposal. (Laughter) I appeared before the Legislative Committee and got soundly trounced. The Local Government Committee gave me a licking. And I felt the pulse of the Convention, and I think I'm licked.

CHAIRMAN GRAYBILL: Mr. Harlow.

DELEGATE HARLOW: Mr. Chairman, sort of in a little salve for Mr. Martin, he appeared before our committee and we did not soundly trounce him. We brought out a majority report, putting in recall in our committee report, and I'm—well, a little bewildered, like the rest of you delegates in here. We have a feeling here—when this Convention was first conceived and thought of, the thought that was in the mind of many of the people here, as well as many of the voters, was that we have a government that would be responsive to the people; and since the Convention has convened and the various winnowing of ideas and personalities and philosophies has taken place, we have that group that has been winnowed out that are strongly in support of a more responsive government. We have those, of course, who've been winnowed out who feel that our government right now is too responsive; we should make it so that it has even less and less response. Now, we come up here with this article dealing with recall, and I find those—some of those, let me put it, who are supporting responsive government are now opposing methods of making government responsive. Maybe they've been lobbied by somebody, I don't know whom. So I rise in opposition to the Loendorf motion, also in opposition to Mr. Etchart's motion, the minority motion, and in support of the majority. We are also going to longer terms for people. We have very few, if the Constitution is adopted by the people. Legislators—most of them will be elected on a 4-year term. Many of the 2-year terms will have disappeared; and we are talking longer and longer terms for elected officials, so I think the recall is very essential. What is wrong with allowing the people to correct their mistakes at election? Why is it so wrong for the people to do that when it's perfectly all right for us here in this assembly. If we make a mistake, why, we come back and get a recall and bring it back out and correct our mistake. We don't feel that we are harassing ourselves or the article, either one—maybe we're sort of harassing the article by the time we beat it back and forth over the desks and over each other's heads—but I feel that we are here on the crossroads of responsive government; and if you are in support of responsive government and a government that will be for the benefit of the people, let's keep the majority report, the recall, here in the Legislature—in the Constitution. Thank you.

CHAIRMAN GRAYBILL: Mr. Harrington.

DELEGATE HARRINGTON: Mr. Chairman, I rise to support the deletion of this section. I believe that it's very important it is deleted. I think that the delegates from Silver Bow County are a perfect example of this, as far as their voting in this Convention is concerned. Now, there are many different power groups that would be located, say, in Silver Bow County and should—because one of the delegates feels he is right in the way that he votes, this group could mass a petition for recall against this person, even though this person only voted because—what he believed was right, and he may have been right, but because of the feelings that run high during a certain period of time, this could not only injure this person—his character—for the rest of his life—this recall—and I think it's a very dangerous thing, and I think we should delete it. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mrs. Cross.

DELEGATE CROSS: Mr. Chairman, again, I think we come down to a basic philosophy. This is the 49th day of this Convention. I think I've heard at least 10 times a day for 49 days that this is a people's convention. We have dealt with many important items in this body. I feel that if we really believe in people, that we shouldn't be afraid of them. I stand in support of the majority report on recall. If we cannot trust ourselves to run for an office and do what we think people want, then they should have the right to remove us if they so choose.

CHAIRMAN GRAYBILL: Mr. Brown.

DELEGATE BROWN: Mr. Chairman. I'm on the minority report, and I support the move to delete recall. They talk about the voice of the people. Actually, this is the voice of a vicious minority. And I might also add that, as Mr. Davis said, on Fridays we don't trust our elected officials, but this is Saturday, when we do, so we should delete recall.

CHAIRMAN GRAYBILL: Mr. Davis.

DELEGATE DAVIS: Mr. President, I take no position on Saturdays—just on weekdays. (Laughter)

CHAIRMAN GRAYBILL: Mr. Wilson.

DELEGATE WILSON: Yes, Mr. President. I wonder what would have happened if this section was in effect at the present time. I seem to recollect that we had several letters—in fact, hundreds of letters— requesting positions that the delegates should take. I wonder, if they had that privilege, maybe they would have exercised it on some of the delegates. I support the motion to delete.

CHAIRMAN GRAYBILL: Mrs. Robinson.

DELEGATE ROBINSON: Mr. Chairman, I would merely like to point out that by having a recall provision and by requiring whatever percentage you do, whether it be 15 or 25 percent, this does not mean that you are automatically recalling the person that's in office. This just means that by getting these—this many signatures, his name will be placed on a ballot on which you will vote to decide whether to keep him in office or to seat [unseat] him. It's not an automatic thing once you've gotten these signatures on a petition.

CHAIRMAN GRAYBILL: Mr. Gysler.

DELEGATE GYSLER: Mr. Chairman, I've always felt that if you can't stand the heat, you don't want to get in the pans, so maybe we'd keep some people out of politics that shouldn't be there if we keep the—this recall in.

CHAIRMAN GRAYBILL: Mr. Jacobsen.

DELEGATE JACOBSEN: Mr. President, fellow delegates, our Local Government had recall in it for local officials. We allowed it to be deleted without too much argument because in our present Constitution there is a recall, and I'm going to go along with the majority on this because I think that it should be there, just as I—for the reason I said the other day—absenteeism in some of our local areas should be reason enough for recall. Thank you.

CHAIRMAN GRAYBILL: Mrs. Reichert.

DELEGATE REICHERT: I do not agree with Delegate Jacobsen. We do not have a provision for recall in our present Constitution. There is a recall by statute.

CHAIRMAN GRAYBILL: Mr. Nutting.

DELEGATE NUTTING: Mr. Chairman, I rise in support of the Loendorf amendment. Actually, we do have provision for all officials except those expressly mentioned in the Constitution. If they can be—The Legislature can pass recall measures, and the Loendorf amendment merely makes it possible for those that have constitutional status; so therefore I think it equalizes the—all people all over the state.

CHAIRMAN GRAYBILL: The question arises on Mr. Loendorf's motion—substitute motion to substitute this language for the motion to delete. Mr. Loendorf's language says: "Laws may be enacted to provide for the recall of all elected officials of the state and its political subdivisions." It has the effect of letting the Legislature enact recall laws. So many as shall be in favor of Mr. Loendorf's motion, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

CHAIRMAN GRAYBILL: The Chair is in doubt. So many as are in favor, vote Aye; so many as are opposed, vote No. Nonrecorded vote. Has every delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Please take the ballot. Well, I don't need to take the ballot. It's 43 for and 41 against, so Mr. Loendorf's motion prevails. It's adopted 43 to 41. Very well, is there other language?

(No response)

CHAIRMAN GRAYBILL: Is there any other discussion or debate of Section 10, as amended?

Mr. Scanlin.

DELEGATE SCANLIN: Mr. Chairman, I think that all that Mr. Loendorf was trying to say was to put a period after "officials" on line 25 and change the "shall" to "may" on line 24, and that would have made it a lot easier for us to understand what we were doing.

CHAIRMAN GRAYBILL: Well, I did dictate the language to any of you that cared to write it down.

Mr. Etchart.

DELEGATE ETCHART: Mr. Chairman, I would like to renew my motion to delete Mr. Loendorf's substitute motion, if I could.

CHAIRMAN GRAYBILL: Very well, Mr. Etchart now moves to delete Mr. Loendorf's motion—Mr. Loendorf's language. That's to delete amended Section 10.

Mr. Etchart, do you want to discuss it further?

DELEGATE ETCHART: I think it has been thoroughly discussed and would leave it to the vote of a body.

CHAIRMAN GRAYBILL: Mr. Foster.

DELEGATE FOSTER: Mr. Chairman and fellow delegates. I made some reference to the question of recall in the Local Government Article, and I think that it's the same—that I referred to then is pertinent here, but I'm—certainly have confidence in the voters, but I'm concerned that we let a minority of voters overrule the majority; if not directly, at least indirectly. And I can see this being used as a club over the head of good officials, but I can also see it being used in the present situation as a club of the Legislature over the head of the Judicial. And I think that this is particularly disturbing, because when the Legislature can pass an act which would allow for example, a petition of 1 percent of the voters, or even a half a percent of the voters, to place a Supreme Court Justice up for a recall election, this is particularly disturbing; and I think that the motion of Delegate Etchart should be supported and we should reject this whole section. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Gysler.

DELEGATE GYSLER: Mr. Chairman, I'd just like to remind this body that today is an even-numbered day, the 18th, and it's on this day that we trust the Legislature, so I hope we defeat the motion to delete.

CHAIRMAN GRAYBILL: Mr. Vermillion.

DELEGATE VERMILLION: Mr. President, is a substitute motion in order?

CHAIRMAN GRAYBILL: A substitute which substitutes an entirely new paragraph is in order, but not to amend Mr. Loendorf's language. Mr. Davis.

DELEGATE DAVIS: I'd just like to call to Mr. Foster's attention: those same voters he started out saying that he trusts their wisdom are going to be electing those legislators to pass these laws, so I support the motion to leave the recall in, as Mr. Loendorf has very wisely effected a good compromise here.

CHAIRMAN GRAYBILL: Very well, the issue is on Mr. Etchart's motion to delete Mr. Loendorf's amended language for Section 10.

UNIDENTIFIED DELEGATE: Roll call.

CHAIRMAN GRAYBILL: A roll call vote is called for. All in favor of deleting the new Loendorf language, vote Aye; all opposed, vote No. Have all the delegates voted?

(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, take the ballot.

Aasheim	Aye
Anderson, J.	Nay
Anderson, O.	Aye
Arbanas	Nay
Arness	Nay
Aronow	Nay
Artz	Absent
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Nay
Berthelson	Absent
Blaylock	Nay
Blend	Nay
Bowman	Absent
Brazier	Nay
Brown	Nay
Bugbee	Nay
Burkhardt	Nay
Cain	Nay
Campbell	Absent
Cate	Aye
Champoux	Nay
Choate	Nay
Conover	Aye
Cross	Nay
Dahood	Aye
Davis	Nay
Delaney	Excused
Driscoll	Absent
Drum	Absent
Eck	Absent
Erdmann	Nay
Eskildsen	Nay
Etchart	Aye
Felt	Excused
Foster	Aye
Furlong	Absent
Garlington	Aye
Gysler	Nay
Habedank	Nay
Hanson, R.S.	Nay
Hanson, R.	Nay
Harbaugh	Aye
Harlow	Nay
Harper	Aye
Harrington	Aye
Heliker	Nay
Holland	Nay
Jacobsen	Nay
James	Nay
Johnson	Nay
Joyce	Aye
Kamhoot	Nay
Kelleher	Absent
Leuthold	Nay
Loendorf	Aye
Lorello	Nay
Mahoney	Aye
Mansfield	Aye
Martin	Nay
McCarvel	Nay
McDonough	Absent
McKeon	Aye
McNeil	Nay
Melvin	Nay
Monroe	Nay
Murray	Absent
Noble	Nay
Nutting	Nay
Payne	Nay

Pemberton	Aye
Rebal	Nay
Reichert	Nay
Robinson	Nay
Roeder	Nay
Rollins	Aye
Romney	Aye
Rygg	Absent
Scanlin	Aye
Schiltz	Nay
Siderius	Nay
Simon	Nay
Skari	Aye
Sparks	Aye
Speer	Nay
Studer	Aye
Sullivan	Aye
Swanberg	Absent
Toole	Nay
Van Buskirk	Nay
Vermillion	Nay
Wagner	Absent
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Nay
Mr. Chairman	Nay

CLERK HANSON: Mr. Chairman, 32 delegates voting Aye, 52 voting No.

CHAIRMAN GRAYBILL: 52 having voted No and 32 having voted Aye, the motion to delete fails. Very well, is there other discussion of Section 10, as amended by Mr. Loendorf?

(No response)

CHAIRMAN GRAYBILL: Members of the committee, you have before you, on the recommendation of Mr. Loendorf that when this body arise and report, after having had under consideration Section 10 as amended, that we recommend that Section 10 as amended be adopted. All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

(No response)

CHAIRMAN GRAYBILL: So ordered. It's adopted as amended.

Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. Chairman, I move the Committee of the Whole stand in recess until 4 o'clock this day.

DELEGATES: No.

CHAIRMAN GRAYBILL: Ten minutes to 4:00; how's that?

DELEGATES: Yes.

DELEGATE ESKILDSEN: With no objection, would 10 minutes to 4:00 be all right? (Laughter)

CHAIRMAN GRAYBILL: Very well, the motion is to recess until 10 minutes to 4:00. All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

(No response)

CHAIRMAN GRAYBILL: And so ordered.

(Committee recessed at 3:37 p.m.—reconvened at 3:57 p.m.)

CHAIRMAN GRAYBILL: The Committee will be in session.

DELEGATE ESKILDSEN: Mr. Chairman. Mr. Chairman.

CHAIRMAN GRAYBILL: The Committee will be in session. The Committee will be in session.

Mr. Eskildsen, for what purpose do you rise?

DELEGATE ESKILDSEN: Mr. Chairman, I rise to let the members of this body note that it is now 2 minutes to 4:00, and had you followed my motion, you would have had plenty of time to have gotten back by 4 o'clock. (Laughter)

CHAIRMAN GRAYBILL: Mr. Eskildsen, this body knows that, had your motion been 4:00, it would have been 4:10 before we got going. (Laughter) Very well, members of the body, we are ready to go on to Section 11. I have been asked to announce that—the order. There are several amendments on Section 11. We'll take the majority first, then the minority. There are amendments, at the moment, on the desk, from Harper, Leuthold, Kamhoot and Ask. There may be others. Will the clerk please read Section 11.

CLERK HANSON: "Section 11. Gambling. All forms of gambling, lotteries, and gift enterprises are prohibited unless authorized by acts of the Legislature or by the people through initiative or referendum." Mr. Chairman, Section 11.

CHAIRMAN GRAYBILL: Mr. Chairman. I move that when this committee does arise and report, after having had under consideration General Government Proposal Number 12, Section 11, it recommend the same be adopted. Mr. Chairman, this section is designed to replace Article XIX, Section 2, of the present Constitution. The present Constitution prohibits gambling of any kind. The proposed revision would continue this prohibition until the Legislature specifically legalized—legalizes particular forms. The proposed revision would alleviate a good deal of fear among the people that a constitutional change would open the door to all sorts of gambling problems that do not now exist in the state. The committee revised the specific and inflexible prohibition in the present Constitution because it feels that the Legislature should make the rules governing gambling. The committee recommends that, if at all possible, the Convention decision on lotteries and gambling—whatever we adopt today—be presented to the people as a separate issue when the Constitution is put to a vote.

CHAIRMAN GRAYBILL: Mr. Choate.

DELEGATE CHOATE: Mr. Chairman, I move that when this committee does rise and report, after having had under consideration this Section 11, that the minority report be adopted. Section 11 reads: "Gambling. All forms of gambling, lotteries, and gift enterprises are prohibited unless authorized by acts of the Legislature or by the people through initiative or referendum". The minority proposal and the majority proposal would accomplish the same end with regards to gambling. Both would leave the matter to statutory law, where extensive provisions prohibiting gambling already exist. Neither provision would legalize gambling of any nature. However, the majority proposal constitutionally states that situation. The minority feel that to state something is illegal until made legal is superfluous and redundant. If, as is the case, there are laws on the books, the laws will stay in force unless overturned by the Court, prohibited by the Constitution or changed by the Legislature. Discussion of any court action is speculative, and neither proposal prohibits the Legislature from acting on the present statutory laws. The minority does not feel it's necessary to list a specific instance in which the Legislature or people may act, when they have been given the general power to so do. Basically, the majority proposal is identical to the minority proposal. The minority feels that the majority provision also could be somewhat confusing to the voters, whereas no mention of gambling would save the confusion resulting from the redundant majority article—redundant. The minority would also like to point out that the majority proposal—if adopted, gambling would join treason as a constitutional crime, while such crimes as murder, rape and assault are statutory crimes. In this light, the minority wonders if gambling is really a basic and constitutional issue. Now, as my learned constituent, Breck Shampoo, said the other day—now, I want to stop here and say something. (Laughter) A great deal has been said and much more will doubtless be said on the issue of gambling and lotteries. From all this, it will become clear that the people of Montana, who are, of course, our paramount consideration, do want some moderation in our present constitutional prohibition against all forms of gambling. We do not propose, nor do the people of this state want, Nevada-type open gambling. Virtually all segments of our society do want to be able to legally play bingo. Possibly a state-operated lottery might have some merit; perhaps some beneficial revenue to Montana might result from it. Maybe other forms of moderate gambling, probably by a mandate of the people. But to constitutionalize bingo—really, I don't think it has constitutional status, and I think that this might be something to consider. We've heard about the great silent majority who will rise up and oppose anything that will change our present prohibition against gambling, and I think this is a myth. Here are petitions, numbering about 4,100 signatures, that have been voluntarily submitted to our committee or mailed to me, and I have about—oh, a total of about 4,900 signatures that have been put on, and this basically says that they want the Constitution to legalize gambling. We have no intention of doing that, of course. We had quite a few people who came to our committee and reported in—or testified in support of some form of relaxation of these restrictions, and we didn't have any witness who appeared in opposition to it. Many letters did come. Many have been written to me, and I'm sure most of you people have had at least some regarding this, in support of it. And, of course, there have been some written in opposition to it; but I have seen very few of those compared to the number of those who have felt in the affirmative. On our statewide radio-telephone program, we had 48 phone calls, 40 of which were in support of our basic proposal and only 8 in opposition to it.

We had a telephone conference call with a high school class at Columbus. There were 60 students there. One of the questions that we asked them was whether they favored deletion of Section 2 of Article XIX from the Constitution. They took a vote on it and unanimously said yes, they did want it. From all of this above data, it's eminently clear that we do have a mandate from the people to delete this section. The present statutes are likewise eminently clear and all-inclusive in their prohibition of all forms of gambling. I can well recall discussing this issue with my father when he was commissioned by the Legislature to do the code revision in 1947, which I know they are still the codes that are being used today in this Convention, and he assured me that under these statutes, all forms of gambling are illegal. Until the Legislature changes these laws, they are still in full force and effect. Presently, they can't do that anyway by—except by constitutional amendment. There are 32 laws on the books—statutes from 94-2401 to 94-2432—fourteen pages. They enumerate every game you've ever heard of. These are the statutes on gambling. Then 94-1421 prohibits betting on elections; 94-3001 to 3011 deal with lotteries. There are 10 statutes there—or 11. In the minority, we don't really see much reason to make any reference to gambling in the new Constitution. I don't feel it really is necessary for it to be a side issue on the ballot. However, if this be our choice, it would be simpler to put it as a side issue; our present Section 2 could be a side issue on the ballot for people to vote on if they want to sustain what we presently have. Otherwise, make no reference to it, because if we do refer to it in the main document, then it will be confusing to have—make—to reference to it. But I feel it will help sell the ballot—or the document—I really do—if we simply delete it. The majority of the voters want it that way, I feel, and it may be worthy to note that both in Idaho and Maryland—in their new proposed constitutions had antigambling provisions. Both of these were rejected. Of 19 states that have written new constitutions since 1945, Michigan, I understand, is the only state that asked for and ratified an antigambling provision. I think Montana is ready to reject the one that we've had since 1889. The Legislature, in their wisdom, can surely provide Montana with the sort of gambling legislation they want. After all, they are the voice of the people, and we shouldn't legislate any further up here. I urge you, fellow delegates, to support the minority position and delete Section 2 of Article XIX. If nothing else, it would ease the burden on our Committee on Style. Those guys over there, they—I'm always concerned when Jack gets up and says, "Well, nothing changed here—nothing substantive—simply language, that's all"—then you look at it, and you find he's emasculated it. Well, it's pretty hard—it's not a very mind-boggling job to style a deletion. I think they could handle that pretty good. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Very well, the Chair understands that the majority section, which is on page 6, would authorize all forms of gambling, et cetera—would not—would prohibit them unless authorized by the Legislature or the people on initiative and referendum; that the minority has proposed that this section be deleted.

Now, Mr. Harper is next.

DELEGATE HARPER: Mr. Chairman, will you have the clerk read my substitute motion for what is before us—the motion to amend Section 11, page 6.

CLERK HANSON: "Mr. Chairman. I move, as a substitute motion, to amend Section 11, page 6, lines 1 through 4, of the General Government Committee proposal by striking it in its entirety and inserting in lieu thereof the following words: 'The Legislature shall have no power to authorize lotteries or gift enterprises for any purpose, and shall maintain laws prohibiting the sale of lottery or gift enterprise tickets in the state.' Signed: Harper." Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Harper, I'm going to amend that so it says, "I move, as a substitute to Mr. Choate's motion"—the point is exactly as it was awhile ago on the other one. I won't let you amend a deletion, but I'll let you put an absolutely new paragraph in in place of it. Now, I understand your motion is on the desks before the body, is that right?

DELEGATE HARPER: No, but you will find it in the old Constitution. Instead of saying "Legislative Assembly", it says "the Legislature", and it is what is in the present Constitution.

CHAIRMAN GRAYBILL: All right, maybe I'd better read it to them. Some may want to write it down. "The Legislature shall have no power to authorize lotteries or gift enterprises for any purpose, and shall maintain laws prohibiting the sale of lottery or gift enterprise tickets in the state." So the situation is that the majority report has been deleted by—is proposed to be deleted by Mr. Choate's minority report and Mr. Harper's language is substituted for the minority report's deletion.

Mr. Harper.

DELEGATE HARPER: Thank you, Mr. Chairman. Some of you guys haven't been in church in a long time, and you're getting ready to get a sermon. So relax—that's the way the congregation does. The other day, on Education, Mr. Champoux moved a pulpit in and set it on his desk; and in spite of the length of it, I applauded his idea, because I think the pulpit should be in the public forum and that every one of us, in a sense, has to be a minister to the others of us. I think we're really getting down to basic ideas about government when we are talking about gambling. Now, some implication is that—some have implied that this is not true; but, you know, unless your head is in the sand, one of the crucial issues of our time, right now, is how long we are going to countenance the sub rosa of government of criminals and gambling elements that is growing apace in many states and all across this nation and, indeed, around the world today. And in writing a Constitution, it's true that we write guidelines for law and organization, but also—and don't forget this—we help to establish the character of our state; and we set many prohibitions into our Constitution already. There are some things that we do not want our state government to do and there are some things that we tell them we do want them to do, and we are moving in a perfectly sound and sensible manner in the way of writing constitutions when we consider writing into our new Constitution what we have in our present Constitution—that one thing we want to prohibit in this state is gambling. We don't want to leave it to the Legislature so that every time this Legislature meets—and believe me, it will be every time this Legislature meets—that we have the gambling interests coming—knock on the door to get this legalized, that legalized, step by step, to get the whole business. The Legislators are going to have enough pressures upon them without having this constantly upon them, too. Now, there are so many things against legalized gambling that a person who takes his citizenship seriously just wonders where to start, really. It's certain that a state's greatness is measured only in terms of the character of its people. At times our state or local government or any agency, such as a church or civic club, gets pretty hungry for money; but any time an agency gets so hungry for money that it has to finance itself out of the weaknesses of its own people, it sows the seeds of its own destruction. No group is ever stronger than the ideals or standards of its people. Now, can anybody make a case for gambling on the basis that it's helpful in personal character-building, or in creating a strong society? If I may mix two metaphors, any way you cut the deck, it's "heads I win, and tails you lose" when it comes to gambling. The only arguments backed by proponents of legalized gambling are these: One, it goes on anyway so we may as well make it legal; two, it's an easy way to make money—the suggestion has been that the state may want, in the future, to avail itself of this easy opportunity to make money—and, thirdly, that, actually, legalized gambling operators won't act like illegal gambling operators; and all three of these arguments are not only false but shallow. If you want to take this "something that goes on anyway, we might as well make it legal", where will you stop? Allow drug traffic, prostitution, graft in government? An easy way for the state to make money? Well, not if you look at the facts. It's an easy way for gamblers to make money—ten to twenty billion dollars a year—but not for the state. If you want an example, we have one. You can look at Nevada—a crime rate twice the national average, and, of course, gambling isn't a crime anyone can be booked on in Nevada. Forcible rape, robbery—also double the national average. Add a liquor consumption two and six-tenths times the national average and, naturally, Nevada's motor vehicle death rate is three times the national average. But, you say, vast sums go into the state coffers from legalized gambling? Well, where it goes from there is a mystery. Nevada's health and welfare services rank below every other state in the Union. Educational systems and facilities are very poor. It has the highest suicide rate in the nation. Where does the money go? Two ways. One is so many added expenses of controlling the extra crime that Las Vegas and Reno have to have police forces two or three times as large as other United States cities of their size. Welfare expenses will go crazy, and the rest of the money goes to feed the corruption that accompanies gambling everywhere. Now, as to the third argument, that legalized gambling people are far different from illegal gambling people, all of the crime commissions—remember the Kefauver Commission?—other federal and state and local commissions in late years—always come to the same conclusion: that gambling in America is a crooked business, run by crooks who—most often, who have no intention of giving the sucker a chance; and I don't even want to go into the detailed volumes that have been produced on this subject. It's enough to say that thinking citizens of Montana don't want any permissive legislation that may damage persons, and gambling damages persons on many counts. Gambling is psychologically damaging. It chokes a person's achievement and fulfillment; and for a person who is neurotic, gambling actually can become addictive. But for every person, ourselves included, the philosophy of getting something for nothing is always psychologically damaging. By social and ethical rules of American conduct, gambling is an immoral business, and it taints those who operate it. Now, when it's kept illegal and occasionally swept under the rug in upheavals of moral reform, gambling has slight opportunity to work its colors into the permanent pattern of American life, but when given a base of legality, as has happened so spectacularly in Nevada, the morals and ethics of gamblers become a part of the accepted pattern of life. And that's not sermonizing; that's just repeating a fact. And here's another fact: gambling is economically damaging. In the first place, the gambling industry is nonproductive. It never creates any new wealth; it never performs any useful service. It drains the salaries, savings, and investments of individuals and families. It serves no human need. Almost invariably, the people who benefit from the gambling profit are connected with the destructive vices of our society; so in Wisconsin, Senator Wiley, several years ago, said that every one dollar that states raise from gambling revenue cause at least five dollars to be paid out in higher police costs, higher court costs, higher penitentiary costs, higher welfare costs. Where does gambling money come from—this easy money? Gambling profits always show up as deficits somewhere else, and that means—and I say it always means—the shoestore, the grocery store, the clothing store, the furniture store. Every dollar comes out of one pocket or another. Gambling has always been and always will be a parasite on the legitimate business community. Our state can't stand the social loss of gambling either. Gambling increases crimes like embezzlement. All studies show that the single biggest cause of embezzlement of funds is gambling. The same is true in terms of it adding to broken marriages, neglected children, poverty, even suicide. Now, I maintain, in closing, we just can't afford these losses, particularly—now, note this—when what we lose always goes into the treasure chest to keep crime syndicates running. Certainly, nobody in his right mind would want the hoodlum empire controlling most of the United States gambling to become any kind of a dominant factor in Montana society and politics, and yet we would be like the proverbial ostrich who sticks his head in the sand to think that we can allow legalized gambling in the future that will not be tied into these nationwide syndicates. The last comment: a lot of people have been writing in to say they wanted legalized gambling, and the implication has been made that if a lot of people had been against it, they would have been writing in, too. We've heard a lot about the issues the people will speak on. I speak now as a churchman. I know something about the church structure and various church groups across this state. And make no mistake about it, there are thousands of Montana people who are going about their normal lives now with no fear of the gambling blight; but their heads will come up out of the sand when this issue comes to light; and any constitution removing the protection against organized gambling is going, probably, to be stuck permanently in the sand of a negative vote.

CHAIRMAN GRAYBILL: Mr. Harper, you have one more minute under the 10-minute rule.

DELEGATE HARPER: I don't need it. I'm done, Mr. Chairman, with the final comment that these flowers you see sitting around here, making it look somewhat like a cemetery, are going to be very appropriate, I'm afraid, for the burial of a constitution that takes this article out of the Constitution without any chance, at least, for a popular vote on it.

CHAIRMAN GRAYBILL: Mr. Champoux, I think you were up next.

DELEGATE CHAMPOUX: Well, I'd like to direct a question at Mr. Choate here, if he'd yield.

CHAIRMAN GRAYBILL: Mr. Choate?

DELEGATE CHOATE: I yield.

DELEGATE CHAMPOUX: Mr. Choate, to allay any suspicions in my mind, or any others in this assembly, that there has been a notorious group pushing this—namely, Don Scandal, King Kong Kelleher, Ima Bleedingheart, Lyman Pure, Breck Shampoo, Pistol Pete Lorello, or Rod Dahood, or that notorious individual, Coffee Cup Kuglin—I'll vote for the measure.

CHAIRMAN GRAYBILL: Mr. Champoux, if you're through, I won't interrupt you. (Laughter)

DELEGATE CHOATE: If that's a question—

CHAIRMAN GRAYBILL: Very well, Mr. Dahood.

DELEGATE CHOATE: (Inaudible)—saw one of them once downtown, but I don't recall for sure.

CHAIRMAN GRAYBILL: Very well, Mr. Dahood.

DELEGATE DAHOOD: Mr. Chairman, I'm satisfied that I respect Delegate Harper as much as I respect any delegate in this Constitutional Convention, and in speaking on the issue, I'm not really opposed to the general premises that he has put forth today. His argument and his brief, however, are filed in the wrong state. We are not here to legalize gambling in the relative terms which he has painted; and with respect to the immorality of gambling, the type of gambling that we're going to be talking about here, which I will come to later on in my remarks—there is no immorality about it. Acts of human conduct fall within two groups: malum prohibitum, because they are prohibited by legislative act, by the law of man, or malum in se, because they are prohibited by the law of God or the natural law. Several years back, I had the occasion to have a world-famous theologian visit in Anaconda—he occupies a very high position in Rome—and I put the question to him, and he stated that gambling, as such, was not immoral; it was not contrary to the law of God provided it did not bring any type of suffering, chaos, turmoil with the people who participate in that activity or upon the family of the individual who does participate. We are not here talking about the legalized gambling that brings crime, that brings syndication, that brings undesirable elements to the State of Montana; we're talking about removing a law that is unenforceable. I do not imbibe in alcoholic beverage. I would like to see prohibition back again, because, in my practice of law, I have seen that particular element that's manufactured by man cause more heartache, more heartbreak, more family disunity, more domestic strife than anything else I can point to, and I don't think it serves any good purpose. I don't think it serves any useful purpose, and if somebody would move here now that we reenact prohibition, I will vote for it. And as my Vice Chairman, Chet Blaylock, said, "God forbid." (Laughter) But what do we have in Montana? We have a situation that makes criminals out of a large segment of our society every day. Every time someone plays a football card or a baseball pool, goes to a bingo game, or has a friendly bet at a football game or a basketball tournament, they are actually violating the law of the State of Montana; and let me assure you, it's only a matter of degree, but they have committed a criminal act. Now, what we're talking about is the present unenforceable constitutional prohibition of the State of Montana that is not reasonable, that is not accepted by the population, and that cannot be just, because the majority of citizens in Montana will not honor it. And what is good and what is just for a particular people has to be measured by the manner in which it's implemented by the actions and conduct of those people in this state whom we consider to be law-abiding citizens that contribute to their communities. What we're talking about is removing a prohibition and placing it on the ballot, letting the people decide whether or not their Legislature, their representatives, ought to have the right to permit bingo, to permit, perhaps, some type of school lottery in the future—that's the type of thing that I'm talking about. I don't want Nevada-type gambling in the State of Montana; and I don't think any good, sound-thinking citizen does; and I think that if we brought that to Montana, allowed it to come here, it would be a disaster for the state, for its economy and for its people; and then we would have all the arguments that Delegate Harper has presented, living arguments that would be a sad lesson for all of us. But we have situations where people have lonely lives, and if this particular activity, which is not morally wrong—for example, going to a church bingo party or going to a bingo affair that's conducted by the American Legion—allow some of the lonely retired people to have something to do, something where they can visit, where it's not going to cause them any particular harm, there can be nothing wrong with it. I was in the County Attorney's office in Deer Lodge County for several years; I've been in that area for 20 years, since my release from the service. I've watched that particular activity; and I know that, technically speaking, it violates the law; but I have not seen any of that activity that I talk about cause any particular social problems for anyone in the community; and I submit that we've got to face the issue precisely in its proper, fair focus. I don't think it's fair to stand up here and try and relate this particular situation to the legalized gambling that we have in Nevada, to the legalized gambling that's written in the journals and the magazines, because that's not what we're talking about at all.

And the people of the State of Montana have been upset about this situation over the decades, and they ought to have the right to look at it on the ballot and decide whether or not they want to legalize these particular things that I have specified so that everyone in the State of Montana shall have the law fairly and evenly applied with respect to them. At the moment, in the State of Montana, in one county, we have strict enforcement of that particular situation; in another, we have laxity with respect to enforcement. We have a case of total imbalance. We have consternation about the law enforcement officers—they don't know what to do. They know they're unpopular if they do something like that, yet there are certain segments of law enforcement that insist it be done. And some will say, "Continue to enforce an unpopular law; you'll bring about its revision or its abolition." I submit it's time to exercise good judgment and common sense. Let's put it on the ballot, let the people decide it, because all that we have in mind are the type of things that I have specified and not the type of gambling that was pictured for us by Delegate Harper. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Harbaugh.

DELEGATE HARBAUGH: Mr. Chairman, I assume that at this point, we're debating the—generally, the three mattters—three motions that have been set before us. Is that correct? General debate is directed to all three of these?

CHAIRMAN GRAYBILL: Yes, general debate can be directed toward all three. I think that the debate at this point demonstrates that we don't want either one of the alternatives that have been set before us so far. I couldn't, in good conscience, I don't think, vote for Mr. Harper's amendment—or substitute motion. Neither could I vote for a motion which would remove this matter from the Constitution, as both the majority and the minority report do. I think that what Mr. Dahood has just said is very true. But I think that if we don't want the kind of hardcore gambling that he referred to in this state, then we had better do something here in this Constitution, and I don't believe that putting this issue on the ballot is the proper way to go about this. The majority and the minority proposal pointed out the fact that we have many, many statutes on the books at this point regulating gambling. Why do we have those statutes on the books? We have those statutes on the books precisely because we have a constitutional statement on this issue. Without that constitutional statement, we could very likely have wide-open gambling in this state and could have had it for years, and I don't think any of us wants that. If we want our state to be besieged, our Legislature to be besieged and harassed by gambling interests, then all we have to do is to take this out of the Constitution. And I speak from some background of experience. I spent 3 years in Wyoming and was closely associated there with a group of citizens who, year after year, went before the Legislature of the State of Wyoming to try to prevent the passage of legalized gambling bills in that Legislature; and we found ourselves powerless before these people who came in and who pushed gambling bills through one house—the Senate or through the House—and an interesting thing would happen. Just when it seemed that everything else had failed, as far as we were concerned, almost miraculously, the gambling issue was turned off. And how was it turned off? It was turned off by the Nevada people, because they didn't want the competition. And I submit to you that if gambling interests have this kind of power that they can manipulate and control a legislative body in this manner, that we don't want to leave the door open one crack for those people to come in and to influence our legislative bodies, and the only way to do this, therefore, is to write something in the Constitution which specifically prohibits certain types of gambling. Now, on the other side of the issue, we don't want to lock up the door and, as Mr. Dahood suggested, make criminals out of everyone who wants to play bingo; and I'm afraid that this is what's going back to the old constitutional statement, which Mr. Harper is proposing that we do, would do. So we need a compromise, and the compromise we need is one that is something like the one suggested by Mr. Kamhoot, which is on your desk and which we haven't come to, at this point, yet. Gambling is a constitutional issue. It's one of the fundamental principles of governmental structure that a constitution should include—things which protect the ethical and the moral rights of people. One more point along this line: the law enforcement people throughout this state, I believe, would welcome some type of clear constitutional statement on this issue. No one, from the Attorney General down to the lowliest Deputy Sheriff, in this state wants legalized gambling; but I think that we could do these people a great service if we could put something into the Constitution in the form of a compromise which would clarify this issue. I know that the proponents of these things always argue that they're going to solve the state's financial crises. They used a very interesting argument in Wyoming when they came in there. They said, "We're going to solve the educational problems of this state; we're going to give 3 percent of the take to education." And in the same breath, those same people turned around and said, "There really isn't very much money involved here." How contradictory can you get? There are tremendous sums of money involved when we open this up. So I urge that we defeat all of these proposals that are before us and that we go on and pass a suitable compromise, which I think Mr. Kamhoot's article is. Thank you.

CHAIRMAN GRAYBILL: Mr. Scanlin.

DELEGATE SCANLIN: Mr. Chairman. I think I can agree 100 percent with what Delegate Harper has said, with one exception. I stand for the removal of the image of hypocrisy from the Constitution of the State of Montana. I was one of the first, I think, to appear before the General Government Committee—one of the preliminary hearings on both the Choate and the Belcher proposals. I testified, and I still sustain the deletion proposal. My reasoning was well stated in an article in the *Great Falls Tribune*, which is now a matter of record. If there is any chance to fight any form of commercialized gambling in the State of Montana, I will be the first to volunteer; but I object to it being a constitutional article. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Toole.

DELEGATE TOOLE: Mr. Chairman. I've been sitting here, shaking in my boots, preparing to answer the onslaught of Reverend Harper. Fortunately, you chose to recognize Delegate Dahood, who expressed my feelings precisely, is—in a much more eloquent way. I really do not react favorably to writing such words as "bingo" or "raffles" into the Constitution of the State of Montana. Thirty-five years ago, the game of bingo was unknown; and 35 years hence, it may be in limbo. I support Mr. Choate's minority proposal. I do not think it will turn Montana into another Nevada. I have been contacted by many people about this, and they're not gamblers; and I don't gamble, and gambling doesn't mean nothing to me. I think it's statutory. I told my constituents that it would probably be one of the first things that was taken out of our Constitution. It obviously has no place in a constitution. Therefore, Mr. Chairman, I sincerely hope that the minority proposal of Mr. Choate will be adopted.

CHAIRMAN GRAYBILL: Mr. Brown.

DELEGATE BROWN: Mr. Chairman. I rise in support of the majority report, and I'd like to discuss, briefly, why I think it's a better plan. I have been a County Attorney and an attorney, and I've been involved in this gambling thing. And we do have laws now on the books prohibiting gambling; but if you read them closely, it says, except cigar stores, et cetera, may have card tables and games of chance as long as they give you trade chips; and I've seen how that's abused. Several years ago the Legislature passed a law allowing nonprofit church—or clubs to have slot machines; so immediately every bar in the state formed a nonprofit corporation—we had slot machines all over the state. They have finally declared that statute unconstitutional due to this present prohibition we have. So, any gambling law you write has to be very carefully done, and I think you'd have to have investigation like you do on liquor licenses to make sure that places that do have bingo—which I agree with Mr. Dahood's statements—and that form of gambling, if you'd call it such, must be investigated and licensed or make sure they aren't a fictitious club or a fictitious church. So, I would like the minority not adopted, because if the Legislature isn't careful and if they don't properly define these things, you could have wide-open gambling without knowing it, and it would happen fast. If you adopt these other amendments that are going to come in and describe bingo, then you're going to describe various gambling games that can be done under a constitutional provision. Now, if you've ever been to Las Vegas, they have what they call "Keno", and it's one of their biggest games there. And if you start to say in our Constitution that you can have bingo or raffles by nonprofit clubs and you get a liberal interpretation of what a nonprofit club is by the Legislature or the Supreme Court or we miss something in here trying to legislate, then you're going to lock in gambling into this Constitution such as you never, maybe, had dreamed about when we passed these provisions, so I think the only safe provision—this is an emotional issue—is to retain the language of the majority report, which continues to prohibit all forms of gambling until such as the Legislature specifically approves. That'll keep a tight rein on it, and it'll be legislative action after they can deliberate on it and not try and write something into the Constitution. And I agree with Mr. Dahood's arguments that we aren't trying to do what Delegate Harper said. We are trying to provide what I think a great many of the people want. Now, if they don't want it—we say we represent the people and we want to give them a voice in our government—then they'll defeat it; but why can't we give them the right to vote on it as a separate issue? And if we take the majority and they vote Yes, gambling will still be prohibited—in fact, we made it broader than the present Constitution—until the Legislature can deliberate and tell us what kind of gambling they want. So I respectfully submit, seriously consider these—and I've had experience with this trying to define a gambling device—and adopt the majority report and any abuses can then be corrected by the Legislature as they arise. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Melvin.

DELEGATE MELVIN: Mr. Chairman, I rise in support of the remarks of Delegate Brown. I was a sheriff at the time of the fiasco when they had the nonprofit clubs and allowed the slot machines, and I have to take issue with Delegate Harbaugh. I think if we write a lot of definitions into this Constitution, that we're going to find ourselves in deep trouble. And, very simply put, I think it should be "there shall be no gambling" or "there shall be gambling", because any time we start adding conditions, we're going to find that we have nothing but court trouble; and I speak this as a former law enforcement officer. The Hickey Gambling Law, which is on the statutes right at the present time—in one section, it says that the game of Twenty-one is forbidden to be played; in the next section, it says that Blackjack can be played. I'm not too familiar with more than Whist, but from what I understand, Blackjack and Twenty-one are pretty much the same; and this is the sort of thing that we run into. I would suggest that everybody in here believes in majority rule or you wouldn't be here, and I would submit that the wisest thing this Convention could do would be to submit this on the ballot as an alternative, where the voters can decide whether to leave it to the Legislature or whether they decide that they want to have the present provision in the Constitution. Already we have provided putting the death penalty on there; I see nothing the matter with putting a section on having to do with suicide. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Davis.

DELEGATE DAVIS: Mr. President, I have restrained myself all day. I'd like to say "Amen" to my brothers Harper and Harbaugh and Brown and all of them. I think this conversation is really excellent. I think it really points up the problem you have on this gambling. Of course, we all know that it's not the churches that are—really want to get the gambling. I'm pretty—I'm sure we could be pretty well unanimous on that. I mean, the churches aren't advocating legalized gambling. And, of course, the service clubs that each year—that have those gambling games in the back of the room, like the Elks, and then at the end of the year, at graduation, they give a good-citizenship award for the kid that's the best student in government—with the money they made off of the gambling down there at the bingo and stuff, see? And no one sees anything wrong with that, as long as they're using it to good purpose. So I suppose what this—we put this on the ballot, then we can say, "Now, we picked a hundred people to come from all over the State of Montana, but we don't—they didn't know whether gambling's really good or bad; we're going to leave that up to you people. But we know about antidiversion and education; but that gambling, you know, that's really too fundamental for us to determine, so we're going to let you people determine whether gambling is really what we call reform—better government." Now, we're going to let the people say—if you think this is going to make a better state and better government, well, let them vote on gambling. You've got a problem leaving it with the Legislature. The Legislature has met this issue headon—1940—1969, House Bill 400 was passed, was presented in the Forty-first Legislature, legalized gambling; Senate Bill 39 didn't pass, '69, legalized gambling; '67, House Bill 463—let's make a state lottery for the University System and finance education that way—didn't pass; 1965, House Bill 245, legalized gambling; 1965, House Bill 135, legalized gambling; 1963, House Bill 238, legalized bingo; and there you go. You know, this Legislature that, as we get near the end of this session, that we've spoken so highly of on Tuesdays and so poorly of on Wednesdays, you know, they stood right up and be counted. They've had a chance to put that on the ballot every time, but those poor legislators, they didn't think that was very good law to put out on the books of Montana, so they just said, "Let's"—"We'll just take the blame; we'll just take the roasting right here"—and they stood up and they were counted, and they didn't put it out on amendment; they put out other things that they thought were more important. And I would say that whatever issue you take here, let's take 'er standing up and let's take 'er right on the chin. Now, I think we can take a muster here, and we've got a lot of eloquent voices and I hate to follow three ministers and a bishop—and Wade's a bishop—I mean, he's higher when it comes to eloquence than any of them—(Laughter)—to follow those fellows on any of the—on any of these reform things—but after doing 20 years in a County Attorney's office, law enforcement, and you have all the people come by and say, "Let's gamble during rodeo—a civic organization—it's a good thing for the community, you know, and it'll be good—we can put up street signs, and that's going to be good." It's a good civic project, and, of course, we don't want the guy next door—now, if a civic organization can do this, the guy next door to him, he's in competition with, can't do it—so, you know, they talk about this thing called "free enterprise"—we used to talk about years ago—and they say, "That doesn't hardly seem fair for us fellows to be running a joint here and paying tax and buying state liquor and the guy next door at the Elks Club, he can gamble and run us out of business, so we've got all those little problems—the law enforcement people." Now, I stood that for 20 years in my little town as the County Attorney; and on Wednesdays, I was a pretty good County Attorney, and on Tuesdays he got weak again and they'd say, "Well, we're going to give a $50 scholarship to the best fellow, so they're going to have a little bingo down at the Elks on Friday, but the money is going to go to a good cause." And then the church—they would have a little bingo. Let's not do it that way; let's decide here and now exactly whether this is good government, good reform. If you folks really think that this is really the kind of issue that you—there's a doubt in your mind—I mean, if there's a doubt in your mind that this is one of the real big issues in our society and our government, you know—I had an experience that way. I invaded four houses of ill fame in my community on the same day one time, and that was the worst thing that happened. The A-bomb didn't shake up the town near as much as this. The grocer about went out of business, the drug stores, the hairdressers, everybody in town—the guy—carpenter had his tools locked up, the appliance guy had stuff they're selling on time, and right on down the line. It was the worst economic shock you could get—(Laughter) Juke boxes and pay phones and everything else were locked up. (Laughter) Boy, now those are the kind of issues that really are fundamental in our society. (Laughter) And so, let's not pass it any place else. Let's just have the fun all right here ourselves and decide how you want to be counted here. This is going to be great. Let's see if this is one of the big issues of our day in 1972 or not. And shall we send it back to the folks back home and say, "That was too much for us, folks; you decide that 'cause—it might be reform, but it might not be—but we don't want to call it." Thank you. (Laughter)

CHAIRMAN GRAYBILL: Mr. Johnson.

DELEGATE JOHNSON: Mr. Chairman. Now, the boys down there in the Little Big Horn in the Powder River country don't understand this raffle business. You don't hear them—you know, raffling my horse against your $40 blanket, or something of this kind or this—They have a saying down there, "ad pune val ad mute"—that means, in that vernacular, the cowboys say, "put up or shut up". (Laughter)

CHAIRMAN GRAYBILL: Mr. Ask, would you like to be next?

DELEGATE ASK: Mr. Chairman, I hate to follow that. (Laughter) I have a motion that's way down at the end of the list here, and I don't know if it solves the problem or not, but I agree with Delegate Harper on gambling. I think gambling—legalizing it—you're—it's just a license to steal. But Mr. Dahood has said it very well: it's a real practical problem to Montana, and I think we are going to have to decide here today how we're going to handle it. I think—Mr. Davis—I can see his idea how we're going to handle it. Well, I think we have to look at this at a—from a practical viewpoint of what's going to happen. Let's just stop and think. Mr. Choate said he had 4,300 names on a—petitions over there; and I would submit that we could probably get a thousand names on a petition tonight, a Saturday night in Helena; but I would venture to say that Reverend Harper could get 2,000 names tomorrow morning, Sunday. (Laughter) The people that sign petitions are out activating things all the time. It's the silent majority that we're not listening to here, and I think Delegate Harper is right. He said if we take gambling section out of our Constitution—the new one that we're going to submit—we're going to lose a lot of support from the silent majority. They're going to come out here and vote against everything good that we've done, just because we took out gambling. Now, the majority report has it in here that gambling is prohibited unless authorized by the Legislature of the people. This is not going to satisfy this group of people, I don't think. And, to me, we don't have too many side issues, and I think we should submit this as a side issue. It's an emotional issue to the people; and it's not a constitutional issue, it's a moral issue, I guess; and my proposal—I don't know if I should discuss it, but maybe, briefly. What I have done is to submit this to the voter as an alternative. I've taken the majority report here, and they can vote for that, and then I have taken the first half a sentence of the majority that all forms of gambling are prohibited. Now we've got the issue, whether they want the Legislature to legalize it or if they want it prohibited absolutely. Now, we're going to get the people that are against gambling to come out and vote for our Constitution, and then they have a chance to vote against gambling here, absolutely, and also the people that are kind of on the fence here—they don't want wide-open gambling like Nevada, but they'll say, "Well, I like this one here, where it's prohibited unless the Legislature authorizes it." And I think we can talk all afternoon, but I think a solution like this to the people is going to solve our problem. And I don't submit it's a good constitutional argument; I'm just saying this is a practical approach and it's the one that we should take here. Thank you.

CHAIRMAN GRAYBILL: Mr. Arness.

DELEGATE ARNESS: Mr. Chairman, I wasn't going to talk on this, but I can't resist, because the loggers have the same saying as the cowboys, and I thought that I should observe that to the body. Also, the—I would like to support my friend, Mr. Davis. I think his analysis is the correct one; and the other day, he observed that after 90 days he became a lieutenant—and I think it must have been in the Marines. I like the attack that he wants to make, and I'd like to join his outfit. Carl, let's go get these guys. (Laughter)

CHAIRMAN GRAYBILL: Mr. Campbell.

DELEGATE CAMPBELL: Mr. Chairman. Being from Missoula, we don't have the problems that Delegate Johnson has in the Powder River country or Delegate Davis has in the Dillon area. We have a more sophisticated type of sin in our area. I was chairman of the Law Day program about a year and a half ago, and I went to a great number of groups to give talks, and I told them that you have to respect the law and it depends on the individual and the individual should start in his own lives respecting the law, and they were very much impressed—business groups, businesswomen, things like this. And then, at the end, they'd say, "We'd like to thank you very much for being here today, and as part of being our guest and everything, we're going to let you draw the winning lottery ticket on who collects the pot today." (Laughter) And this sort of dubious honor, you know, sort of made me feel that maybe we're missing our point on this thing. I don't think it's a thing that should be placed on a side issue on the ballot at all; I think that we can decide it here. I think the majority is basically correct, or we could delete it altogether. But I could spend many hours going to respond to Reverend Harper, but I would like to close just with this one poem—it's called "Ode to Reverend George": Your ideals are great for the best in our state, your solution most commendable; but as you follow your star, accept us as we are, and don't make sin unconstitutional. Thank you. (Laughter)

CHAIRMAN GRAYBILL: Mr. Leuthold.

DELEGATE LEUTHOLD: Mr. President. Would it be proper to submit another proposal at this time, or did you want to take a vote on one of the others?

CHAIRMAN GRAYBILL: You're next up. Let me see here a minute. You want to amend the majority proposal, and the majority proposal isn't before us yet. We have to either support or—the Chair might—you've heard enough, now—the Chair might outline for you what the situation is. We have the majority proposal, which would say that gambling is prohibited unless authorized by the Legislature or a referendum or initiative. Then you have the minority to delete the language, which really would allow the same thing but not foul up the Constitution with the language. Then you have Mr. Harper's motion to say that—which is—in effect, reenacts the present Constitutional prohibition against gambling. Now, Mr. Leuthold has an amendment, if we ever get to it, which would allow the—which would amend the majority report by deleting the words "acts of the Legislature", so that the Legislature couldn't authorize gambling, but the people could, through initiative or referendum. Then, Mr. Kamhoot has an amendment which would be in lieu of the first—in lieu of the majority proposal—and—"The Legislative Assembly shall have no power except as herein provided to authorize lotteries", et cetera, "and shall pass"—"to authorize lotteries or gift enterprises for any purpose and shall pass laws to prohibit the sale of lotteries", and so forth, "provided the games of chance commonly known as bingo and raffles shall be lawful if conducted by bona fide religious, charitable, civic, fraternal and veterans organizations", and that the Legislative

Assembly should enact legislation authorizing the playing—lawful playing of bingo and raffles—so, he would allow some gambling under the Legislative control. And then Mr. Ask has the proposal he described, which says to put on the ballot two issues: one, Section 11 as it is, that the legislator—Legislature or the people can now authorize gambling, but otherwise it's illegal; and, two, to make gambling illegal, period—in other words, the people should choose whether to make it illegal or whether to make it illegal only under the Legislature. And then, Mr. Johnson—No, I take it back—that's on—that's a new section. Then, Mrs. Reichert has one here, the upshot of which would be to place on the ballot a slightly different thing than Mr. Ask's: "The Legislature shall have no power to authorize lotteries or gift enterprises of any purpose and shall enact laws to prohibit the sale of lotteries and gift tickets"—similar to Mr. Harper's, except that goes on the ballot, Yes No. Now, that's what's in the bag of tricks up here. And Mr. Leuthold, I don't mind putting yours, but yours doesn't apply to Harper's, whose is up next; so it would seem to me that you can describe it and then go ahead.

DELEGATE LEUTHOLD: I would like to call attention to the delegates—

CHAIRMAN GRAYBILL: Hold it a little closer.

DELEGATE LEUTHOLD: I'd like to call attention to the delegates that, in the discussion here, why, I feel that my proposal will offer somewhat of a compromise between the two extremes. I—in my proposal, I've merely deleted "the Legislature". Now, the—it would have to be submitted to the people, either in a referendum or the people would present an initiative to the Legislature; so the Legislature will be involved, but the final decision would be made by the people. Now, in all our other articles, the Bill of Rights and so forth, we've given power to the people to make decisions, and I think this is one place—it's a serious business, it's been presented as a serious business on the floor—and I couldn't preach a sermon like Reverend Harper, but like Delegate Davis, I'd like to say "Amen" to what he has said—but I think we have to give a little bit and yet not be too restrictive. In the proposal I am presenting, it will still be in the Constitution, but it can be submitted to the people; and I hope that you keep that compromise in mind as you do your voting.

CHAIRMAN GRAYBILL: Mr. Romney.

DELEGATE ROMNEY: Mr. Chairman, since 1889 we've had no gambling in Montana (Laughter) and I don't think now is the time for us to start it. I don't battle a bit with Delegate Harper's views about some of the woes that result from gambling. We all know that what he said is largely true, but there are other sides to the coin. I don't think that the Constitution of the State of Montana or other—any other state or any of our acts of the Legislature are—should be filled with sumptuary legislation, and that's what this is. We've seen the ghastly failure of Prohibition. We know that the idea was splendid. I think the late President Hoover called it "the noble experiment", but it failed. We recall the laws of the Puritans; you weren't allowed to kiss your wife in public, things of that character—didn't work. We've had this antigambling thing in the Constitution since the Constitution was promulgated in 1889, and every one of us knows that's ever been around the state of Montana at all that it has been outrageously flouted by a large section of the people. And that section of the people were the ones who were the victimized, largely by their refusal to heed the tenets of the law; the people who responded to the law and heeded it were largely uninjured by the gambling. So I think we've got into a position where we've got to do something about it. I don't like to see a constitutional provision which is flouted, ignored, contemptuously treated. I think that we should have something in our Constitution that we can abide with. So I think that perhaps it should be placed upon the ballot, as the delegate from Roundup suggests and as other people has suggested. I think it should be first exterpated from the Constitution in any form whatsoever and placed on the ballot, and the people that want to restrict gambling can—if they have the votes, they can see to it that the rest of the people who want to gamble can't do it, just like they haven't been able to do it since 1889; and the people who are in—desirous of gambling can do so, and they—ones that—who do not wish, if the gamblers prevail, can still refuse to gamble. So that way, everybody would have their cup of tea. But I don't think it's wise to continue the way we have been going since 1889. I think we should face it, as distasteful as the choice may be. It's no worse to place gambling proposition before the voters than it is to place the public lynch law on the ballot, and we've done that. So, I think that we'd better go ahead and follow the delegate from Roundup—take the matter out of the Constitution, let the people decide it, and then go from there.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman. I find, in these late weeks, that I'm usually very frequently agreeing with both Mr. Harper and with the distinguished gentleman from Ravalli, but now I don't have—I can't agree with both of them, but I must say I agree with—I couldn't agree more than I do with Mr. Harper. We're stating a document of principle here, one that's going to govern the State of Montana in all the foreseeable future, and I think we have to stand on a principle, and that is a principle that denies the institution of gambling. And I don't approve of any left-handed way of avoiding that principle by submitting it to the people, and I assume that's what Mr. Davis was saying, but I wasn't altogether sure. Now, in addition to that, Mr. Harper's proposal has an extremely practical effect. We can adopt that proposal in about 5 minutes and do away with about 3 hours more of debate on all the other proposals that I can see coming up. And I think he's eminently right, besides that. Thank you.

CHAIRMAN GRAYBILL: Mr. Kamhoot.

DELEGATE KAMHOOT: Mr. Chairman, these last two speakers have kind of inspired me here. I'm wondering if I'm going to get a chance to introduce this proposal; so I would like to ask you, at this time, would it be in order?

CHAIRMAN GRAYBILL: Mr. Leuthold, I would skip over you simply because yours amends a specific one and I'm not trying to go out of order, but yours does amend a specific one that's not before us. If—in order to get your issue before us, Mr. Kamhoot, if you want to make a substitute motion to Mr. Harper's motion, we'll place yours before the body for awhile. May the clerk read it?

DELEGATE KAMHOOT: Yes. I would like to do that, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Clerk, will you read Mr. Kamhoot's?

CLERK HANSON: "Mr. Chairman. I move, as a substitute motion to Mr. Harper's substitute motion to amend Section 11, page 6, of the General Government Number 12 committee proposal, line 1 through 4, in its entirety and inserting in lieu thereof the following language: 'The Legislative Assembly shall have no power, except as herein provided, to authorize lotteries or gift enterprises for any purpose and shall pass laws to prohibit the sale of lottery or gift enterprise tickets in this state, provided that games of chance commonly known as bingo and raffles shall be lawful if conducted by bona fide religious, charitable, civic, fraternal, or veteran organizations; and further provided that the Legislative Assembly shall enact legislation authorizing and regulating the lawful playing of bingo and the conducting of raffles so as to carry the provisions of this section into effect.' Signed: Kamhoot." Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Kamhoot, has your provision been placed before the delegates?

DELEGATE KAMHOOT: Mr. Chairman, it has.

CHAIRMAN GRAYBILL: All right, just a moment, now.

Mr. Blaylock, for what purpose do you rise?

DELEGATE BLAYLOCK: To a point of order.

CHAIRMAN GRAYBILL: All right, what's your point?

DELEGATE BLAYLOCK: To see if I'm right. I thought—as I understand it, the majority moved the proposal on gambling—

CHAIRMAN GRAYBILL: Right.

DELEGATE BLAYLOCK: —then they moved as a substitute the minority proposal—

CHAIRMAN GRAYBILL: Right.

DELEGATE BLAYLOCK: —then Mr. Harper moved his as a substitute to those two, so we have two substitutes before the body, and in the past you have only allowed two substitute proposals at a time.

CHAIRMAN GRAYBILL: Well, Mr. Blaylock, you're partially right. I've, in the past, allowed three matters at a time, depending on how they were styled. I don't think I've allowed a substitute motion to a substitute motion before. It does seem to me that we have seven possibilities on gambling; I merely want to get all of them before the body. If I would style Kamhoot's an amendment to Harper's, then I would be authorized to do it under the old rule. It doesn't seem to me it makes much difference. Do you want to—do you object to my putting both of these before the body and letting them debate them all at once?

DELEGATE BLAYLOCK: Yes, I do. I think—because in the past, you've said—you've always said, "Let's clear some of these out, then if we get back to it—"

CHAIRMAN GRAYBILL: Well, we've got three more to clear out later. All right, I'll tell you what I'll do. I'll strike the fact that it's a substitute motion. Mr. Kamhoot, I'll allow you to amend Mr. Harper's motion by striking the language thereof and inserting therein your language, which is of a similar nature but with a different aspect to it, and I'll call it an amendment instead of a substitute motion. I'm sorry, Mr. Blaylock. Just a moment.

Mr. Harper.

DELEGATE HARPER: May I simply point out—and I'm just trying to help you a little bit here—that, really, Mr. Kamhoot's is an amendment to mine in that it has exactly the same wording and then instead of—he just adds an additional—

CHAIRMAN GRAYBILL: Right. That's right. He adds additional language. He calls it—

DELEGATE HARPER: You saw that, I'm sure.

CHAIRMAN GRAYBILL: He called it—actually, he claimed in his written material before you that it was [an] amendment to the majority proposal, but what he's really doing is adding a sentence to Mr. Harper's. Now, before you start, Mr. Kamhoot, I'd like to set the stage again, so that everyone keeps this in mind. The majority says, no gambling except the Legislature or the people can authorize it. The minority says, delete the entire section, because then we'll have the Legislature and the people able to authorize it. Mr. Harper says, "I'd like the old Constitution to say; namely, really, no gambling." Mr. Leuthold has an amendment to the majority which hasn't come up here which—yet, which would simply eliminate the Legislature and say we'd have no gambling unless the people allowed it. We have now got Mr. Kamhoot's before us, which says, no gambling except regulated bingo, et cetera, et cetera, can be authorized to certain people. And then, if we get through these, we have two ballot proposals—one by Mr. Ask to put Section 11 on the ballot and pair it with a no-gambling provision and let the people choose, and one by Mrs. Reichert which says, "Shall we put the old Constitution in—Yes or No?" Now, that's what's before us.

And, Mr. Kamhoot, if you'd like to discuss your proposal to add to Mr.—to add language to Mr. Harper's, you may do so now.

DELEGATE KAMHOOT: Thank you, Mr. Chairman. I thought it imperative, perhaps, that we get this one out here so we could discuss it before everyone ran down talking about the others and talking about this one before it had been presented. Delegate Dahood is not in the room; I wish that he were. I believe that he gave all of the exact reasons why my amendment should be accepted here today, except that he wanted to go to the trouble of putting it on the ballot. So I certainly thank Wade for that. I think Delegate Brown, perhaps, said about the same thing—that the Legislature could very well control this. That is exactly what my amendment says: that the Legislature can control whatever evil may crop up in this. Delegate Romney and Delegate Schiltz, back here, have really inspired me, though, because they want to get it done with right quick and give it up to the people and let them get to thinking about it. I think Delegate Davis—Delegate Johnson said it properly: that we ought to settle it right here; and I think this is the place. I'm going to read my opening statement. There are reasons for that, and I'm sure that many of you will think about as we go along. I would hope that, if the press is here, that they pick this up exactly as I read it. This is a subject that I have thought about a good deal in the last several years. I have never been convinced that open gambling in Montana would be in the best interest of our state. I have no addiction to gambling, as some people do. I could either embrace an open gambling law or not; it wouldn't matter. However, I have had some unpleasant experience as a result of gambling. I'm very interested in removing certain restrictions from our Constitution which prohibit senior citizens from the enjoyment of many hours spent in the excitement of playing bingo for insignificant prizes of minor value. I also know that local service clubs have had difficulties in raising funds for their many community projects, since they cannot hold raffles to raise funds. This is not an interest that has developed since I came to this Convention. In 1969, I followed very closely the progress of Representative Stratton's bill to have an amendment presented to the voters for their consideration. This bill passed each house of our Legislature with a good margin. However, it never got on the ballot due to a Governor's veto. I introduced a delegate proposal in this Convention, which I hoped would accomplish the same thing. This proposal was rejected by the General Government Committee in their deliberations. The proposal was hastily and poorly drawn to accomplish what I really intended, and I agree with the committee's action.

Having given more thought, I decided to ask the highest legal office in our state for some very narrow guidelines within which the integrity of our gambling law could be preserved and still provide for the enjoyment of our senior citizens and, in addition, provide the means whereby civic clubs could again have a way to raise the badly needed funds for their community projects. I also feel it is proper and good judgment to have the confidence and advice of our state legal department. It is this same department that will be living with and enforcing this law if it is adopted here today, and I hope that this body, in its wisdom, will adopt my amendment. I thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Choate.

DELEGATE CHOATE: Mr. Chairman. I would resist the substitute motion—or the amended motion—whatever—we'll call it "Mr. Kamhoot's "—on the premise that we did study this problem for about a month in committee and, basically, the majority and minority reports differ very little, the only difference being that in the one instance we have language in the Constitution that makes reference to it and permits legislation to alter it—that—. The minority proposal differs only in that we feel that the wordage is redundant and unnecessary, because the statutes are clear and very definite and all-inclusive. So, a few things are emerging here that appear evident. It seems like we are generally agreed that the proposition, if put to the people, should allow them a choice either way—to retain the present prohibition that we have or to allow the Legislature to act. I think the Legislature does have the ability to write a good article—or a good statute, I should say—that would permit the kind of gambling that they know the people would prefer. I am sure they're not going to open it to any wide-open situation at all, and I think rather than for us to try to draw something hastily here and decide in an hour or two's time that it's a well-drawn statute, I think that we'd be well to accept either the majority or minority position—and preferably, the minority, because in this case, if it's to be placed as a side issue on the ballot, the document could be written with a deletion of Section 2 of Article XIX and then that be placed—that present Section 2—be placed as a side issue. We would only have one for them to keep from being confused by; and this is the reason, basically, why we in the minority felt that a complete deletion of it on the one hand, with a chance to vote on retention of that section on the other. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mrs. Cain.

DELEGATE CAIN: Well, I'd like to rise—raise another issue, and this is a matter of discrimination. If you accept Mr. Kamhoot's proposal, you are going against my right. I like a game you have not mentioned, and I want to play it in a place that you have not allowed. (Laughter)

CHAIRMAN GRAYBILL: While you're thinking about that—(Laughter)

Mrs. Erdmann.

DELEGATE ERDMANN: Mr. President, I simply rise on a point of inquiry. Would Delegate Kamhoot yield to a question?

DELEGATE KAMHOOT: Yes, I'll yield, Mrs. Erdmann.

DELEGATE ERDMANN: I would like a definition of "raffles". This probably shows how limited my experience is, but legalized raffles—would this be legalized lottery? Thank you.

DELEGATE KAMHOOT: Mrs. Erdmann, I suppose one of the lawyers should do this. My idea of a raffle is where you sell chances on a—perhaps a radio or a freezer or something like these civic groups are always doing because they're trying to raise money that they can spend in their communities for the projects that they have. And, now, they can—have a very difficult time raising this, so the raffle, in my mind, is the selling of these chances so that they can provide the services for their communities. That's my interpretation of a raffle. If an attorney has a different one, why, I would certainly yield to any of them that would like to give it.

CHAIRMAN GRAYBILL: Mr. Belcher.

DELEGATE BELCHER: Mr. Chairman and delegates. This has been one of the most healthy debates we have had on this floor, on one of the most controversial issues, without any heated arguments or anything. What we are really getting back to now is exactly what General Government Committee, in their weeks of deliberation on this thing, has discussed. We are getting back to the majority—or minority report. They both have the same end, really. The only difference between the majority and the minority report is that the majority report does spell out exactly what the people are voting on: the Legislature can enact it, or it can be done by referendum. Going back to Delegate Harper's remarks—we have our head in the sand. I don't think we do. I don't think any of us have our head in the sand. We know people are gambling in this state. I go to church every Sunday that I'm home, if I can, and I went to his church here one Sunday and he gave a very fine sermon. I'm on the board of trustees of my own church in my hometown, but on a Saturday night, I might go out and play at a tavern for a dance, too. So I don't think I have my head in the sand, and I don't think that the committee did have. I think we should get to deliberating on these issues and get away with these proposals that are coming in and start voting on them and start eliminating them. I'm in favor of the majority report.

CHAIRMAN GRAYBILL: Mr. Siderius.

DELEGATE SIDERIUS: Just for a point of information. I understand that all these fairs they have parimutuel horseracing. How are they controlled, and how did that get into being?

CHAIRMAN GRAYBILL: Mr. Gysler, are you volunteering?

DELEGATE GYSLER: I'm volunteering. Parimutuel betting on horseraces was—is authorized by a statute; it is not authorized under the Constitution. The case has never been—come up before the Supreme Court, so just where it stands is anybody's game.

CHAIRMAN GRAYBILL: Mr. Siderius.

DELEGATE SIDERIUS: Will Mr. Gysler yield to a question?

CHAIRMAN GRAYBILL: Mr. Gysler?

DELEGATE GYSLER: Oh, I'll yield. I may have already told you all I know.

DELEGATE SIDERIUS: Is that considered legal—legal gambling?

DELEGATE GYSLER: Mr. Siderius, I don't really know what the term "legal" means. As long as nobody pushes the situation and files the case, I would presume it is going to be legal. I imagine it's legal until declared unlegal. (Laughter)

DELEGATE SIDERIUS: Will Mr.—

CHAIRMAN GRAYBILL: Mr. Siderius.

DELEGATE SIDERIUS: Will Mr. Loendorf yield to a question?

CHAIRMAN GRAYBILL: Mr. Loendorf?

DELEGATE LOENDORF: I yield.

DELEGATE SIDERIUS: What is your interpretation of that?

DELEGATE LOENDORF: Yes, Henry. The difference is this, I think. Gambling is defined as something where you pay some money—consideration; you take a chance and can win a prize. At a horserace you pay money, you exercise skill, and you win a prize. (Laughter) That's the—that's why on-track betting is legal; off-track betting—bookmaking—is not.

DELEGATE SIDERIUS: Will Mr. Loendorf yield to another question?

DELEGATE LOENDORF: I will yield.

DELEGATE SIDERIUS: Who is—who—you—would you be betting on the jockey or the horse, in that case?

DELEGATE LOENDORF: I—when I bet at the races, I'm gambling. (Laughter)

DELEGATE SIDERIUS: That's all.

CHAIRMAN GRAYBILL: All right, Mr. Ward.

DELEGATE WARD: Mr. Chairman, fellow delegates. I should state my case. I'm a veterinarian and these horses are part of my livelihood, and I would say that anybody puts a $2 bet on one of those horses, he's gambling, with no question. I don't do too well myself sometimes, and I even treat them, so—I'm forbidden to bet on them myself, according to statutes. I could tell you how this bill was put through in 1965. I helped lobby it a little bit, because I had a selfish interest. This bill was set up to circumvent the Constitution and was passed as a breeding—breeders' bill. It went through the Department of Agriculture, and so there's ways of getting around these things. This has a statute in it that designates every race meet, that there be a race held for Montana-bred horses. Now, this means that any horse's papers—the owner's address is in Montana, and part of the purse goes back to that owner, no matter whether he's changed hands three or four or five times. It has never met the Supreme Court test, so when this bill went through, they had to repeal all the dogracing laws, which—we raced dogs for awhile in Montana, but now we don't—and, of course, this horseracing industry in Montana isn't as big, but I expect that as long as we don't go to the Supreme Court and they rule it out, that it'll get bigger. It brings in some income, and it's still a $2 bet.

CHAIRMAN GRAYBILL: Mr. Brown.

DELEGATE BROWN: Mr. Chairman, I think this parimutuel betting brings up a good example, that if we try and get too restrictive and define bingo and raffles and things, we're going to get in trouble. There's no doubt in my mind that parimutuel betting is unconstitutional; the minute they start rocking the boat and taking it up to the Supreme Court. And Mr. Kamhoot's—he says bingo and raffles, they shall provide for it. If it's abused, the Legislature couldn't do anything about it; so I think, go with the majority, then the Legislature—it'll all be prohibited until they make specific exceptions under proper regulations—and put it on the ballot, like Mr. Ask has requested; and I hope we can vote.

CHAIRMAN GRAYBILL: Mrs. Cross.

DELEGATE CROSS: Mr. Chairman. The Legislature has been brought in here a number of times as the logical body to decide this, and I would like to read a letter from Senator Thiessen from District 3, representing McCone and Richland Counties. This might help you make up your mind. "I am convinced that the antigambling clause ought to remain in the Constitution. The reason is that legalized gambling is not in the best interests of the state, and if you leave it up to the Legislature, it brings about a very serious problem when seeking new sources of funding state government. I think the least you can do is to place it on the ballot as an alternate proposal as the North Dakota people did in their final draft. Sincerely, C. R. Thiessen."

CHAIRMAN GRAYBILL: Mr. Toole.

DELEGATE TOOLE: Mr. Chairman. Webster defines a raffle as follows: "From the French, a dice game; a lottery in which a participant buys a chance to win the prize."

CHAIRMAN GRAYBILL: Very well.
Mr. James.

DELEGATE JAMES: Mr. Chairman, fellow delegates, I wonder what the odds are on us voting tonight?

CHAIRMAN GRAYBILL: They're pretty good on voting tonight. (Laughter)
Mrs. Bates.

DELEGATE BATES: Fellow delegates. Earlier I wanted to give a loud "Amen" to Mr. Harper, too; and, delegates, I don't know if you've ever heard the explanation of sin—it's what others do, not what I do. And under Mr. Kamhoot's definition here, all we have to do is be a member of the right church or the right organization and then sin would be all right and it's no longer a sin. Also, our senior citizens—I have worked with senior citizens throughout the State of Montana. Senior citizens want the right to do something to be of service to the people; they want to feel needed and wanted. I don't really think they want bingo as full-time employment, but, friends, let me tell you that the one-armed bandit is no more addictive than the bingo tables, and I have seen this many years ago and—in the town of Butte, where, day after day, the same people would be going to the bingo tables. I feel very strongly about keeping this in our Constitution as it now is. If we do not do this, we must give it to the voters for their decision or we will place our Constitution in jeopardy. Thank you.

CHAIRMAN GRAYBILL: Now, the Chair is going to ask that we start sticking very strictly to the question here. And I think we've all heard quite a bit, and if you have something additional to offer, fine; but otherwise, let's get ready here to vote pretty soon.
Mr. Harbaugh.

DELEGATE HARBAUGH: Thank you, Mr. Chairman. I thought maybe you were confusing me with this rose here for a little while. Now, I think that really we have missed the point. There are two things that the people want, as I understand it; and I don't think that any of the proposals before us, other than Mr. Kamhoot's, satisfies what the people want. And it seems to me that the two things that they want are this: number one, they want the assurance that we will not have hard-core gambling in the State of Montana, and the only way we can provide that assurance is by some kind of constitutional statement—now, both the majority and the minority proposals fail at this point; secondly, they do want to be free to hold bingo and raffling games. Now, I fail to see how putting this thing on the ballot gives them the choice for what they want, because if we put this on the ballot in the way that has been proposed, they have to choose, then: one, either to throw the thing to the Legislature, which means opening it up to legalized gambling; or to have no gambling at all, which means that they cannot have the social games that they want to have. And it seems to me that the only reasonable way out of this solution, even though it probably is not the kind of thing that we would like to see in the Constitution, is to vote for Mr. Kamhoot's proposal or one similar to that.

CHAIRMAN GRAYBILL: Mr. Harlow.

DELEGATE HARLOW: Mr. Chairman, fellow delegates. As you know, I get disturbed with words. I would like someone to tell me what bona fide religious organizations are, and then I also would like to bring your attention to the fact that Section 5 of the Bill of Rights, dealing with freedom of religion—no laws are to be passed, sort of, about religion—and here, if this amendment put forth by Mr. Kamhoot passes, you are passing laws either regulating or giving various privileges to religious organizations. So I think we are not on the right track, and with those few short remarks about what is a bona fide religious organization and can we pass laws giving religious organizations certain privileges that we do not give someone else, I don't think we're thinking very clearly. I am opposed to the Kamhoot amendment.

CHAIRMAN GRAYBILL: Mr. Habedank, you were up, and I don't want to go out of order.

DELEGATE HABEDANK: Thank you, Mr. President. In response to what Reverend Harper said, I would say "Amen". In response to what Mr. Dahood said, I would say "So be it". Mr. Davis has said that we should decide this issue here and now. I would point out to Mr. Davis that the people of Montana have never been given an opportunity to vote on this question since the first Constitution was adopted. Until this Constitution is adopted, the people have never had an opportunity to propose a constitutional amendment by initiative. It has always been necessary to secure a vote of two-thirds of both houses of the Legislature to have a constitutional matter referred to the people, and then they've had to consider whether or not it would come within the three-amendment procedure. This will be the first time, if the majority proposal is adopted and if it is given as an alternative, along with Reverend Harper's proposal, for the people to decide for themselves and settle once and for all this issue which we think we are so wise to determine. Reverend Harbaugh's proposal does not meet the situation, nor does Mr. Kamhoot's, because we attempt to do here in a matter of hours what the Legislature can work out in due care and change if they have made a mistake. We have put directions to the Legislature in specifics which are unwise, and I would like to refer to what Bruce Brown said in his remarks about why it is necessary that this go to the people. Bruce Brown, if you know him, is one of the most "nonconstitutional, everything is statutory" people you can meet, and for days and days he argued about "we should have this deleted from the Constitution", and it took a lot of thinking on his part to realize that the people were entitled to the assurance that some ill-conceived law that may remain on the books might open gambling wide and to bring—and to come into line with the majority proposal requiring specific action. I agree with Mr. Ask. First, I want to cover Mr. Leuthold's amendment. He would strike "by acts of the Legislature or", so it would appear that you could do this by the people through initiative or referendum. I would call to Mr. Leuthold's attention that the Legislature—any act of the Legislature can now be referred to the people by them, and if the people do not like it, it only takes a 5-percent vote to refer it; and I think it is much better for the Legislature to have the chance to struggle with these measures than to have them come in directly through initiative and for that reason the majority proposal—by acts of the Legislature—should remain in there. Mr. Ask has pointed out something very real to all of us. I would like to think that the people have something to vote for in connection with this Constitution, not something to vote against. If we accept Reverend Harper's proposal as it is and left that in the Constitution, all of the people who have never had an opportunity to vote on this question and express their will are being denied. By the—accepting the majority proposal, if it goes out as an alternate to the people, you can have the majority or you can have the Constitution as it was. The purists can vote against it and those who want the majority proposal can vote for it, but they still have the protection of the Legislature and initiative and referendum to take care of their positions on how far they want the Legislature to go; and I think, in all fairness, the people are entitled to finally have a chance to vote on this measure; and I think the proposals that they should have a chance to vote on are the Constitution as it is now, Section 2, as put in by Reverend Harper, and the majority proposal, Section 11. And the reason I think Section 11 should be in there, rather than the minority, is that it spells out to the people without any arguing, without any talking. You can say that the minority does this, but you're not sure. We think it does. But under Section 11, the majority proposal, anyone voting on it knows that if they do not want to take the purist attitude that Reverend Harper takes and Jack Schiltz takes, that they do know that there will be no gambling which is not authorized by their representatives or by themselves; and I urge you to support the majority proposal and put it on the ballot.

CHAIRMAN GRAYBILL: Mr. Burkhardt.

DELEGATE BURKHARDT: Mr. Chairman, I rise to second, I think, what Otto has spoken of, if I understand him. I didn't get sent here primarily to defend or reject the current section on gambling; I came for a number of interests in our Constitution. And I think when we are challenged to the heroic stand of doing this for the people, we may be ignoring the situation that we actually are in, and that is that in many reforms in government that we have already written in that we don't want to jeopardize, and I think—I've just lost a bet. Arbanas sent me a note a moment ago and said, "I'll bet you talk before I do," and I lost that bet and—but it seems to me that what Otto said gives us a chance to put on the ballot a choice between what we currently have and between the Section 11 which would—then we can come and fight in the Legislature every year and the Mafia can waste its money here in Helena, trying to get this thing through. I think our people are going to know that they don't want to sell out to this kind of extreme form of legalized gambling that Mr. Harper was outlining, but it would give, in the situation we find ourselves in, a strong reason for people to turn out and vote at our constitutional election.

CHAIRMAN GRAYBILL: Very well, the issue is on Mr. Kamhoot's language to not allow gambling except for bingo and raffles, under control, in the religious, charitable, and so forth, institutions. Now, are there others that must discuss this?

Mr. Wilson.

DELEGATE WILSON: Mr. President, this has been belabored a lot. I would like to point out to this Convention, though—however, that the present statute—article you have in your Constitution has prevented syndicate gambling from entering the State of Montana. If this ever happens that they can get into Montana, it's going to propose a lot of problems for law enforcement; and I think law enforcement all over the state is against having this type of personnel get into the state. I would call for a roll call vote on the question, Mr. Chairman.

CHAIRMAN GRAYBILL: We'll have a roll call vote. Is there any discussion before we put Mr. Kamhoot's motion?

(No response)

CHAIRMAN GRAYBILL: Very well, the issue is on Mr. Kamhoot's motion that "The Legislative Assembly shall have no power, except as herein provided, to authorize lotteries or gift enterprises for any purpose and shall pass laws to prohibit the sale of lottery or gift enterprise tickets in this state, provided that games of chance commonly known as bingo and raffles"—bingo and raffles—"shall be lawful if conducted by bona fide religious, charitable, civic, fraternal or veterans organizations; and further provided that the Legislative Assembly shall enact legislation authorizing and regulating the lawful playing of bingo and the conducting of raffles so as to carry the provisions of this section into effect."

Mr. Kamhoot.

DELEGATE KAMHOOT: Mr. Chairman, may I close?

CHAIRMAN GRAYBILL: Yes, sir.

DELEGATE KAMHOOT: I will be very brief. In the majority report—it's been mentioned several times that the majority report said that they would put it on the ballot. I don't believe it does say that, only in the remarks. Now, I realize there are probably other amendments that will do that. I would like to point that out, though—that as they have it in Section 11, it does not say they'll put it on the ballot. I have had a good deal of mail and other communication on this subject, and these have averaged at least three to one to not open Montana up to gambling except as this amendment will provide. It has been pointed out to me, and it is true, that gambling does not create any wealth; it only redistributes it. I have no personal interest in opening this up, other than I would certainly love to see some of our senior citizens be able to engage in this exciting and enjoyable thing. I have an amendment here that is very, very closely drawn. The guidelines are very tight. You can talk about it all you want to, but I think you'll find very few reasons—valid reasons—to say that this is not going to control this type of gambling, if we want to call it that. I would rather say that it would take it out of the category of calling it gambling and let a few of these people live out their lives the way they would like to without harming the state by bringing in legalized gambling or submitting the Legislature to a tremendous pressure at every session—one group trying to open up the gambling; another group trying to keep it closed. I thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Very well, so many as shall be in favor of Mr. Kamhoot's proposition, vote Aye; and so many as shall be opposed, vote No. Has every delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to—

Mr. Leuthold.

DELEGATE LEUTHOLD: When Delegate Kelleher left, he wanted me to inform you that he and Delegate Murray had paired on all gambling votes.

CHAIRMAN GRAYBILL: Very well. Pairs are not allowed, but if they're not here, I guess they're paired. (Laughter) Any other delegate want to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, take the ballot.

Aasheim	Nay
Anderson, J.	Nay
Anderson, O.	Nay
Arbanas	Nay
Arness	Nay
Aronow	Nay
Artz	Aye
Ask	Nay
Babcock	Aye
Barnard	Nay
Bates	Nay
Belcher	Nay
Berg	Nay
Berthelson	Nay
Blaylock	Nay
Blend	Nay
Bowman	Nay
Brazier	Nay
Brown	Nay
Bugbee	Nay
Burkhardt	Nay
Cain	Nay
Campbell	Nay
Cate	Nay
Champoux	Nay
Choate	Nay
Conover	Nay
Cross	Aye
Dahood	Nay
Davis	Aye
Delaney	Excused
Driscoll	Nay
Drum	Absent
Eck	Nay
Erdmann	Nay
Eskildsen	Absent
Etchart	Nay
Felt	Excused
Foster	Absent
Furlong	Nay
Garlington	Aye
Gysler	Nay
Habedank	Nay
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Nay
Harper	Nay
Harrington	Nay
Heliker	Nay
Holland	Nay
Jacobsen	Aye
James	Nay
Johnson	Aye
Joyce	Nay
Kamhoot	Aye
Kelleher	Absent
Leuthold	Nay
Loendorf	Aye
Lorello	Nay
Mahoney	Nay
Mansfield	Nay
Martin	Nay
McCarvel	Nay
McDonough	Nay
McKeon	Nay
McNeil	Nay
Melvin	Nay
Monroe	Nay
Murray	Absent
Noble	Nay
Nutting	Aye
Payne	Nay
Pemberton	Nay
Rebal	Nay
Reichert	Nay
Robinson	Nay
Roeder	Nay
Rollins	Nay
Romney	Nay
Rygg	Nay

Scanlin	Nay
Schiltz	Nay
Siderius	Nay
Simon	Nay
Skari	Nay
Sparks	Nay
Speer	Nay
Studer	Aye
Sullivan	Nay
Swanberg	Absent
Toole	Nay
Van Buskirk	Nay
Vermillion	Nay
Wagner	Nay
Ward	Nay
Warden	Nay
Wilson	Aye
Woodmansey	Nay
Mr. Chairman	Nay

CLERK HANSON: Mr. Chairman, 15 delegates voting Aye, 77 voting No.

CHAIRMAN GRAYBILL: 77 having voted No and 15 Aye, Mr. Kamhoot's motion is defeated. The issue is now on Mr. Harper's motion, which is the present Constitutional sections on gambling and prohibits gambling.
Mr. Scanlin.

DELEGATE SCANLIN: Mr. Chairman, I think that Delegate Ward has adequately described the term when I used—when I said "hypocrisy in our present Constitution". I wonder if Delegate Cain would yield to a question.

CHAIRMAN GRAYBILL: Mrs. Cain?

DELEGATE CAIN: I yield.

DELEGATE SCANLIN: What is the name of your game? (Laughter)

DELEGATE CAIN: What if I would say "penny ante poker"? (Laughter)

CHAIRMAN GRAYBILL: Very well. Mr. Harper, I'll let you close if something else doesn't happen—but I'd like to let the rest of them debate, if they want to, Mr. Harper's proposition, shortly.
Mr. Habedank.

DELEGATE HABEDANK: I would like to ask a question, not debate, Mr. President. As I understood, Mr. Ask had a motion up there that would place the majority proposal and Harper's proposal on the ballot. Is this correct? And if we vote against Reverend Harper's proposal, what is the result, as far as getting these two issues on the ballot?

CHAIRMAN GRAYBILL: If we vote against Mr. Harper's motion, then I suppose the issue would be open for another substitute motion to put it on the ballot. That would leave the deletion one up. However, I don't see that Mr. Ask's—

(Inaudible remark from floor)

CHAIRMAN GRAYBILL: Well, I wouldn't say that.
Mr. Ask.

DELEGATE ASK: Mr. Chairman, could I move my motion for all motions now pending—or substitute motion for all motions pending?

CHAIRMAN GRAYBILL: You placed me back in the position Mr. Blaylock had me, but I won't be able to get out so easily. In other words, your particular motion doesn't include Mr. Harper's language, and so it's not going to be easy to amend—to say that you're amending Mr. Harper's language. He's already a substitute motion. Mr. Blaylock pointed out that I don't generally allow two substitute motions.

DELEGATE ASK: Mr. Chairman, my wording is different, but it's the same basic intent—I mean, much simpler.

CHAIRMAN GRAYBILL: Well—but Mrs. Reichert's motion is identical, so, you know, that puts me in a kind of a tough position, doesn't it?

DELEGATE ASK: Well, we can wait, I suppose, on that.

CHAIRMAN GRAYBILL: I don't like to make a second substitute motion, and yours really changes the whole language to a different set of facts.
Mrs. Reichert.

DELEGATE REICHERT: Mr. Chairman, would it help if I made my motion now, since it is identical to Reverend Harper's except I would like the proposition on the ballot? I'd like to point out the difference between mine and Mr. Ask's is that in the amendment I offered, there is a choice for deletion; in the amendment offered by Mr. Ask, there is no choice for deletion—it's either no gambling at all or gambling such as proposed in the majority proposal through the Legislature and initiative. So therefore, if it is in order, I could place my motion now; otherwise, I'll wait.

CHAIRMAN GRAYBILL: I suppose I could hold it in order, Mrs. Reichert, but it would put us in the position of deciding a lesser thing—namely, the ballot proposition—before we've decided on the basic thing, and I would prefer that you let Mr. Harper's motion be voted on one way or the other, and then we'll know whether that's the sense of the body. If it's the sense of the body, fine. If it isn't the sense of the body, you will be given an opportunity, and so will Mr. Ask, to make your motions.

Very well, I think we're ready for you, Mr. Harper.

DELEGATE HARPER: Mr. Chairman, I think this is the best process. If my motion is sustained, that will be that. If it's defeated, then these other suggestions can come up—like Mr. Ask's very fine suggestion. While his words are not exactly like those words in the present Constitution, I believe when we examine them, we'll find maybe it makes the issue more clear. I would just like to say, in closing, that I appreciate Mr. Campbell's poetic gesture a moment ago, although I am forced to observe it was rather poor poetry (Laughter) and I'm not so sure but what maybe poor policy. Sometimes—I'll put in parentheses "if not always"—to act on principle is—turns out to be the most practical way to act in life, and it just—I've been called a purist. Maybe it's that way. I suppose my proposition could be put like this: that the only practical way to deal with gambling in a close-knit society like ours is to leave it completely alone. With that, I close.

CHAIRMAN GRAYBILL: Very well. The issue, which will be by roll call vote, is on Mr. Harper's substitute motion to put this language: "The Legislature shall have no power to authorize lotteries or gift enterprises for any purpose and shall maintain laws prohibiting the sale of lottery and gift enterprise tickets in the state", which is the present constitutional amendment—or constitutional language. So many as are in favor, vote Aye; so many as are opposed, vote No. Have all the delegates voted?

(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, take the ballot.

Aasheim	Nay
Anderson, J.	Nay
Anderson, O.	Nay
Arbanas	Nay
Arness	Nay
Aronow	Nay
Artz	Nay
Ask	Nay
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Nay
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Nay
Brazier	Nay
Brown	Nay
Bugbee	Nay
Burkhardt	Nay
Cain	Nay
Campbell	Nay
Cate	Nay
Champoux	Nay
Choate	Nay
Conover	Nay
Cross	Aye
Dahood	Nay
Davis	Aye
Delaney	Excused
Driscoll	Nay
Drum	Absent
Eck	Aye
Erdmann	Aye
Eskildsen	Absent
Etchart	Nay
Felt	Excused
Foster	Absent
Furlong	Nay
Garlington	Nay
Gysler	Nay
Habedank	Nay
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Nay
Harper	Aye
Harrington	Nay
Heliker	Aye
Holland	Nay
Jacobsen	Nay
James	Aye
Johnson	Aye
Joyce	Nay
Kamhoot	Aye

Kelleher	Absent
Leuthold	Aye
Loendorf	Nay
Lorello	Nay
Mahoney	Aye
Mansfield	Nay
Martin	Aye
McCarvel	Nay
McDonough	Nay
McKeon	Nay
McNeil	Aye
Melvin	Aye
Monroe	Nay
Murray	Absent
Noble	Nay
Nutting	Aye
Payne	Aye
Pemberton	Nay
Rebal	Nay
Reichert	Aye
Robinson	Aye
Roeder	Nay
Rollins	Nay
Romney	Nay
Rygg	Nay
Scanlin	Nay
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Nay
Sparks	Nay
Speer	Aye
Studer	Nay
Sullivan	Nay
Swanberg	Absent
Toole	Nay
Van Buskirk	Nay
Vermillion	Nay
Wagner	Nay
Ward	Nay
Warden	Aye
Wilson	Aye
Woodmansey	Aye
Mr. Chairman	Aye

CLERK HANSON: Mr. Chairman, 36 delegates voting Aye, 56 voting No.

CHAIRMAN GRAYBILL: 56 having voted No and 36 having voted Aye, Mr. Harper's motion is defeated. Now, the Chair would like to observe that Mr. Choate's minority to delete is up, and if either of you other two move to amend that, then the other—or move to substitute for that, the other won't be on. It doesn't much matter whether we delete it or whether we leave it alone. Let's defeat or sustain the motion to delete, and then we'll offer two amendments—yours and Mrs. Reichert's—and find out which way we want to do it, if that's what we want to do. Maybe we want to go back and leave it deleted, or maybe we want to go back and leave it the minority report—or the majority report. But let's get back to the basic proposition before we authorize the ballot thing. Otherwise, we're going to get only one ballot proposition before us at a time. Is that agreeable with you, Mr. Ask?

DELEGATE ASK: (Inaudible)

CHAIRMAN GRAYBILL: Mrs. Reichert?

DELEGATE REICHERT: (Inaudible)

CHAIRMAN GRAYBILL: Very well, we're on yours, Mr. Choate. Do you care to close?

DELEGATE CHOATE: Yes, Mr. Chairman, I'm ready to close, with the understanding that this proposition would permit the placing of our present Section 2 as a side issue on the ballot, because this has been the understanding of both the majority and minority committees, I believe, that the proposition of the side issue on the ballot could be in either case if this body wishes.

CHAIRMAN GRAYBILL: Well, you see, if we adopt yours, we'll have the slate clean and then we're ready to decide what to put on the ballot. If we don't adopt yours, we've got the majority report and somebody can move to amend it and somebody can move to substitute. All right, Mr. Choate has closed; and the proposition, then, ladies and gentlemen, by roll call vote, is on the minority report, which is to delete the majority report from the Constitution and take all references to gambling out of the Constitution. All in favor, vote aye; all opposed, vote No. Have all the delegates voted?

(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, close the ballot.

Aasheim	Absent
Anderson, J.	Aye
Anderson, O.	Nay
Arbanas	Nay
Arness	Aye

Aronow	Nay
Artz	Nay
Ask	Nay
Babcock	Nay
Barnard	Nay
Bates	Nay
Belcher	Nay
Berg	Nay
Berthelson	Absent
Blaylock	Nay
Blend	Aye
Bowman	Aye
Brazier	Nay
Brown	Nay
Bugbee	Nay
Burkhardt	Nay
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Nay
Dahood	Aye
Davis	Nay
Delaney	Excused
Driscoll	Aye
Drum	Absent
Eck	Nay
Erdmann	Nay
Eskildsen	Absent
Etchart	Nay
Felt	Excused
Foster	Absent
Furlong	Nay
Garlington	Nay
Gysler	Nay
Habedank	Nay
Hanson, R.S.	Nay
Hanson, R.	Nay
Harbaugh	Nay
Harlow	Aye
Harper	Nay
Harrington	Aye
Heliker	Nay
Holland	Aye
Jacobsen	Aye
James	Nay
Johnson	Aye
Joyce	Nay
Kamhoot	Aye
Kelleher	Absent
Leuthold	Nay
Loendorf	Nay
Lorello	Aye
Mahoney	Nay
Mansfield	Nay
Martin	Nay
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Nay
Melvin	Nay
Monroe	Aye
Murray	Absent
Noble	Nay
Nutting	Nay
Payne	Nay
Pemberton	Aye
Rebal	Nay
Reichert	Nay
Robinson	Nay
Roeder	Nay
Rollins	Nay
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Nay
Siderius	Nay
Simon	Aye
Skari	Nay
Sparks	Nay
Speer	Nay
Studer	Aye
Sullivan	Nay
Swanberg	Absent
Toole	Aye
Van Buskirk	Nay
Vermillion	Nay
Wagner	Nay
Ward	Nay
Warden	Nay
Wilson	Nay
Woodmansey	Nay
Mr. Chairman	Nay

CLERK HANSON: Mr. Chairman, 30 delegates voting Aye, 60 voting No.

CHAIRMAN GRAYBILL: 60 having voted No and 30 Aye, the motion to delete fails, and we're back on Section 11.

Mr. Ask.

DELEGATE ASK: Mr. Chairman, could I move my motion as a substitute motion for the majority report and have the clerk read it?

CHAIRMAN GRAYBILL: You may. No, we'll go to Mr. Leuthold's if we ever stay on the—Section 11. Let's decide the issue now whether we're going to be on the ballot or not.

CLERK HANSON: "Mr. Chairman, I move that an alternative section to Section 11, page 6, of the General Government Proposal Number 12, be submitted with the new Constitution as a separate issue. The following proposal should be submitted: 'Section 11. Gambling. All forms of gambling, lotteries and gift enterprises are prohibited unless authorized by acts of the Legislature or by people through initiative or referendum. Section 11. Gambling. All forms of gambling, lotteries and gift enterprises are prohibited.' Signed: Ask." Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Ask, are—is your proposal on the desks?

DELEGATE ASK: No, it is not. They said printing was closed, so—

CHAIRMAN GRAYBILL: Yes, that's right. Well, just—let me just state it. To summarize Mr. Ask's proposal, it is—and you may want to take notes on this—that Section 11, as it exists on page 6, be one alternative and that the first line of Section 11, putting a period after "prohibited", be the other alternative. In other words, we're either going to have, under his proposal, gambling—or no gambling except that the Legislature or the people may by—may do it, or we're going to have no gambling.

Now, Mr. Ask, do you want to explain that? And then I'll go to Mrs. Reichert.

DELEGATE ASK: Yes. Mr. Chairman, fellow delegates, this proposal puts the majority report and then the first line of the majority report on the ballot, and I think we've discussed it enough—the pros and cons of whether to put it on the ballot or not—or gambling—and I won't go into that. The only thing I would say—that they mentioned that Mr. Harper and Mrs. Reichert are going to put in the old Section 2, and the reason I used the first line of the present Section 11 is much clearer. If you look at the old Section 2, it says: "The Legislative Assembly shall have no power to authorize lotteries or gift enterprises for any purpose and shall pass laws—and shall pass laws—prohibit all—the sale of lottery or gift enterprise tickets in this state." What I'm saying, in my alternate here, is that all forms of gambling, lotteries and gift enterprises are prohibited—is prohibited. It will be clearer to the voters when they're voting whether they're voting for item Number 1 or item Number 2. They're the exact wording. One says it's prohibited; the other says it's prohibited unless authorized by acts of the Legislature. And some may say, "Well, why don't you just put one alternate on there?" And I don't think that's quite fair either, to just say—just—this is a half-way compromise between the people that think there ought to be some allowance of gambling—in other words, you just say "no gambling" or just leave it up to the Legislature. I mean, it's got to be—this is kind of in between, and I think this should be clear, and if this body does decide to submit it to the voters, I think there certainly would be no misunderstanding that—what the question is. Also, I'd like to refer to page 13 of the majority report. They indicate the committee recommends that, if at all possible, the Convention decision on lotteries and gambling be presented to the voters as a separate issue, and I think that's to the point we are right now. Thank you.

CHAIRMAN GRAYBILL: Mrs. Reichert.

DELEGATE REICHERT: Mr. Chairman, I rise in opposition to Mr. Ask's amendment. I think it is interesting, but I think it would be a much better choice for the voters to simply to able to say Yes or No to gambling. That is what they did in North Dakota. I call attention to your alternate—their alternate proposition Number 4, and it is simply what I have stated—Yes or No. I think that it would make it sound like an echo, but the minority proposal, when it suggested deletion, stated: "The minority proposal and the majority proposal would accomplish the same end with regards to gambling. Both would leave the matter to statutory law, where extensive provisions prohibiting gambling already exist. Neither provision would legalize gambling of any nature." And I contend, by just voting Yes or No on this constitutional provision, we'd accomplish the same thing as we would with Mr. Ask's amendment but the people wouldn't be given two choices they'd have to think about. I think we'd cloud the issue. I think it would be much simpler for the voters to either say Yes or No.

CHAIRMAN GRAYBILL: Mrs. Reichert, do you move, as an amendment to Mr. Ask's substitute motion, your language?

DELEGATE REICHERT: Yes. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Will the clerk please read it.

CLERK HANSON: "Mr. Chairman, I

move, as a substitute motion, to amend Section 11, page 6, line 1, of the General Government proposal by deleting it—"

CHAIRMAN GRAYBILL: Mr. Clerk, we'll just say that she moves to amend Mr. Ask's proposal by saying—go ahead—put an alternative on the ballot that says—

CLERK HANSON: "—that will read in the following manner: 'The Legislature shall have no power to authorize lotteries or gift enterprises for any purpose and shall enact laws to prohibit the sale of lottery or gift enterprise tickets—Yes or No.' Signed: Reichert."

CHAIRMAN GRAYBILL: Very well, now, members of the body, you have before you two alternative ways of placing this on the ballot. One is a Yes/No proposition by Mrs. Reichert on the old constitutional language, which has prohibited gambling up till now. The other is stating that we shall have no gambling unless the Legislature allows it, or that we shall have no gambling at all. Those are the two things we're talking about. Now, Mrs.—let's see, you've talked.

Mr. Harrington.

DELEGATE HARRINGTON: Mr. Chairman, I rise to oppose Miss Reichert's amendment. I feel that it would do a disservice to the people here who feel that the majority plank—I think it would be—I just don't think it would get to the issue, and I think it would—the people would be mixed up on this, and I think it would be a poor way to go on the ballot. I would go along with Mr. Ask's. Thank you.

CHAIRMAN GRAYBILL: Mr. Etchart.

DELEGATE ETCHART: Mr. Chairman. I would oppose Mrs. Reichert's amendment, too, and the majority of the committee would be very happy to accept Mr. Ask's proposal, because this would do exactly what we had in mind. It would allow the voters to have a chance to have their say on whether they want gambling or not, with legislative controls, and it would reassure everyone that gambling would be prohibited until the Legislature actually authorized it by specific action. So the committee would endorse Mr. Ask's proposal, and I would oppose Mrs. Reichert's.

CHAIRMAN GRAYBILL: Mrs. Blend.

DELEGATE BLEND: Mr. Chairman, I rise in support of Mrs. Reichert's amendment. I think this is one of the days that we should consider that the people do have some sense, and I think a clear Yes or a clear No would settle the question. Thank you.

CHAIRMAN GRAYBILL: Mr. Kamhoot.

DELEGATE KAMHOOT: Mr. Chairman, would you read Delegate Ask's proposal without the Reichert amendment to it, please.

CHAIRMAN GRAYBILL: Delegate Ask's proposal is, the following proposals would be submitted to the ballot: "Section 11. Gambling. All forms of gambling, lotteries or gift enterprises are prohibited unless authorized by acts of the Legislature or by the people through initiative or referendum." Or, in place of that, "Section 11. Gambling. All forms of gambling, lotteries and gift enterprises are prohibited." In other words, it's Section 11 or Section 11 with a period after the word "prohibited". It has the effect of putting on the ballot whether they want no gambling or whether they want no gambling, but authorized by the Legislature, we can have it. It would have to be an alternative—the ballot would have to be prepared in the alternative somehow.

Mr. Davis, you were up.

DELEGATE DAVIS: Mr. President, fellow delegates. I reluctantly oppose Mrs. Reichert, after we've voted the same for 49 days, but I will have to oppose her on this issue. I think that Mr. Ask has come up, probably, with as good a compromise solution as we can have. If we do have gambling, it's going to be controlled by the Legislature. No one wants Las Vegas or Nevada type gambling in Montana. So, if they put both of them on, they both have to read—and, as Mrs. Blend says, they're going to be intelligent, so they can read, too, and decide which one they want. Then they can still get back to the type that the people want, through their elected representatives. If they want to continue to restrict it to bingo and so forth, they could do it. Under the Yes or No thing, it could be interpreted to open the states wide-open to all kinds of gambling, and for those who are—which I'm not—but for those who are in favor of a little bit of gambling, which I consider to be just like being a little bit pregnant—but if they—if some do want just a little bit of gambling, well, let's give them a chance to do it.

CHAIRMAN GRAYBILL: Mrs. Bates.

DELEGATE BATES: Mr. Chairman. I was wondering, is Mr. Ask's amendment now on the floor and Section 11 on the floor that it could be amended?

CHAIRMAN GRAYBILL: Section 11 is the original motion. Mr. Ask's is an amendment—Mrs.—or a substitute motion, and Mrs. Reichert's is an amendment. We're going to consider Mrs. Reichert's first, but assuming we ever got to Mr. Ask's or Miss—or the original, and they, of course, could be amended—

DELEGATE BATES: Could I mention—what I would like to do here is have Section 11 amended by leaving out "by acts of the Legislature or—"

CHAIRMAN GRAYBILL: Well, that's Mr.—

DELEGATE BATES: —so that it would read—

CHAIRMAN GRAYBILL: That's—Grace, that's Mr. Leuthold's amendment. If we ever get back there, he'll make that amendment. He takes "the Legislature" out but leaves "the people" in.

DELEGATE BATES: That's right, and I would—

CHAIRMAN GRAYBILL: All right, that's Mr. Leuthold's—if we ever get back there.

DELEGATE BATES: Okay. Therefore, I would oppose Arlyne Reichert's amendment and would go for the alternate proposal with the amendment. Thank you.

CHAIRMAN GRAYBILL: The Chair wants to observe something. Maybe the two people that are up are going to observe it, but the Chair wants to point out to you that maybe Mr. Ask has proposed a Yes No proposition, too. I'm sure that Mr. Schiltz, if he's awake back there, will have thought of the fact that the language of Mr. Ask's two proposals is identical down through the word "prohibited", so I presume the Constitution would contain the phrase "All forms of gambling, lotteries and gift enterprises are prohibited." Then the alternative would be, do you want the Legislature and the people by initiative and referendum to have the alternative to change—to allow gambling? Yes No. I just want to point out that Style and Drafting may have this right back in the same Yes No box, and you can decide what you want to do, but you ought to understand it.

Mr. Harper.

DELEGATE HARPER: Mr. Chairman, I think we're finally at the end of a long road or maybe coming out of the end of the tunnel. Let me make two observations. One is: Arlyne, I'm surprised at you. (Laughter) Now, I'm often surprised at you, but I mean on your wording. Actually, you say this would make a Yes No deal and be very different from Mr. Ask's—"The Legislature shall have no power to authorize lotteries", et cetera. You say they can vote Yes on that, and that's substantial. But suppose you vote No? I guess the only thing you vote No to is the word "No", so the opposite would be, "The Legislature shall have power", and it would be put right back to the Legislature. I don't really see the difference between the two. I think Mr. Ask's is more clearly worded and draws the issue. And, now, may I refer back to some things I said earlier in helping to start this ball rolling—and we are concerned about this, and I am very concerned about it—I think this would give people on—who want to keep the present Constitution as it is—the sense of it as it is—only more clearly stated in Mr. Ask's proposal—or in the majority proposal, I should say. It will give them the chance to vote for this, and they are not having to ratify a constitution that makes gambling legal at all in any phase. They can go that far. And the people who want to leave this, now, to the Legislature to give the kind of more freedom that the majority report is asking for have a chance to vote for it, too. Now, it is true we are not giving people who want wide-open gambling with no restrictions at all a chance, but I sense that this body does not want to even infer that we want that kind of thing here. So, it seems to me that Mr. Ask's proposal, now being accepted by the majority, is really the sensible way to go, and I'm personally quite pleased to see it.

CHAIRMAN GRAYBILL: Mr. Harper, the Chair feels constrained to comment. I hate to argue with you, but Mrs. Reichert's Yes No proposition is Yes, to put this language in the Constitution, or No, to leave it out; which means that her alternative is the minority report of deletion. You see—you with me?

DELEGATE HARPER: Yes, I'm with you, but I simply suggest that it still would be up to the Legislature.

CHAIRMAN GRAYBILL: All right. I'm just—I just think that I—I want everybody to understand what we're doing here.

DELEGATE HARPER: All right.

CHAIRMAN GRAYBILL: Mrs. Pemberton.

DELEGATE PEMBERTON: Thank you, Mr. President. I would like this delegation to know that, during the campaign—both in the primaries and the general election—I visited Alzada, Montana, and held my meetings in Dempsey Dodd's Bar and Cafe, which is—there aren't very many places in Alzada to meet. (Laughter) And the boys in Alzada, both times, said, "Mrs. Pemberton, how do you feel about gambling?" Well, the first time, I passed it off, and I said, "Well, everyone believes in motherhood and bingo." Well, the next time, they said the same thing—"How do you feel about gambling?" And I said, "You're very serious," and they said, "Yes, we are." So, on behalf of Alzada, they are not interested in Reno-type or Las Vegas-type gambling, but they would like to see something to this effect in the Constitution. I suggest that it be deleted, but I would also support Mr. Ask. And thank you.

CHAIRMAN GRAYBILL: Mrs. Reichert, would you like to close?

DELEGATE REICHERT: Yes, Mr. Chairman. I'd like to answer Delegate Harper. It's really too bad that he hadn't been a delegate to the North Dakota Constitutional Convention, because they came up with the exact same proposition that I mentioned and they have a Yes/No on their ballot. But I think that as far as—when we get right down to it, Mr. Ask's amendment and mine are identical, except he is stating that we could leave it to statutory law; I am stating merely that we could delete it and thereby statutory law would take care of the situation. And with that, I'll close.

CHAIRMAN GRAYBILL: Very well, the—

UNIDENTIFIED DELEGATES: Roll call.

CHAIRMAN GRAYBILL: We'll have a roll call vote. The issue is on Mrs. Reichert's amendment to put the old constitutional language—or the present constitutional language on the ballot as a Yes/No alternative. If the people voted Yes, we'd leave it in; if the people voted No, we'd have no reference to gambling in the Constitution, and the Legislature, of course, could act in that case. Very well, all those in favor of Mrs. Reichert's proposition, vote Aye; all those opposed, vote No. Has every delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, take the ballot.

Aasheim	Nay
Anderson, J.	Nay
Anderson, O.	Nay
Arbanas	Nay
Arness	Nay
Aronow	Nay
Artz	Nay
Ask	Nay
Babcock	Nay
Barnard	Aye
Bates	Nay
Belcher	Nay
Berg	Aye
Berthelson	Nay
Blaylock	Aye
Blend	Aye
Bowman	Nay
Brazier	Nay
Brown	Nay
Bugbee	Nay
Burkhardt	Nay
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Nay
Choate	Aye
Conover	Nay
Cross	Nay
Dahood	Aye
Davis	Nay
Delaney	Excused
Driscoll	Aye
Drum	Absent
Eck	Aye
Erdmann	Nay
Eskildsen	Absent
Etchart	Nay
Felt	Excused
Foster	Absent
Furlong	Nay
Garlington	Nay
Gysler	Nay
Habedank	Nay
Hanson, R.S.	Nay
Hanson, R.	Nay
Harbaugh	Nay
Harlow	Aye
Harper	Nay
Harrington	Nay

Heliker	Nay
Holland	Nay
Jacobsen	Nay
James	Nay
Johnson	Nay
Joyce	Nay
Kamhoot	Nay
Kelleher	Absent
Leuthold	Nay
Loendorf	Nay
Lorello	Nay
Mahoney	Nay
Mansfield	Nay
Martin	Nay
McCarvel	Aye
McDonough	Nay
McKeon	Nay
McNeil	Nay
Melvin	Aye
Monroe	Aye
Murray	Absent
Noble	Nay
Nutting	Nay
Payne	Nay
Pemberton	Nay
Rebal	Nay
Reichert	Aye
Robinson	Nay
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Nay
Siderius	Nay
Simon	Nay
Skari	Nay
Sparks	Nay
Speer	Aye
Studer	Nay
Sullivan	Nay
Swanberg	Absent
Toole	Nay
Van Buskirk	Nay
Vermillion	Nay
Wagner	Nay
Ward	Nay
Warden	Nay
Wilson	Nay
Woodmansey	Nay
Mr. Chairman	Nay

CLERK HANSON: Mr. Chairman, 22 delegates voting Aye, 70 voting No.

CHAIRMAN GRAYBILL: 70 having voted No and 22 Aye, Mrs. Reichert's motion does not prevail and is defeated. We're now on Mr. Ask's motion that we have a ballot alternative, which is Section 11 against Section 11 down to the word "prohibited", period.

Mr. Leuthold.

DELEGATE LEUTHOLD: May I make a motion to Mr. Ask's?

CHAIRMAN GRAYBILL: You surely may. Do you want us to read it?

DELEGATE LEUTHOLD: I would like to submit my proposal incorporated in Mr. Ask's one section there.

CHAIRMAN GRAYBILL: All right, Mr. —read it as an amendment to Mr. Ask's first alternative, Mr. Clerk.

CLERK HANSON: "Mr. Chairman. I move to amend Mr. Ask's Section 11—first Section 11—by deleting the following words: 'acts of the Legislature or by'. Signed: Leuthold." Mr. Chairman.

CHAIRMAN GRAYBILL: Very well, now, Mr. Leuthold will amend Section 11—you can find the language on page 6—which is Mr. Ask's first alternative, and he takes out of it the right of the Legislature to act. In other words, he would say there shall be no gambling unless the people through initiative and referendum allow it.

Mr. Leuthold.

DELEGATE LEUTHOLD: Mr. President and delegates. Just briefly, I'd like to explain what I'm trying to do here. I feel that any proposal to the Legislature—they're going to be under terrific pressure, regardless of how the proposal is to be presented; and I feel that it will relieve a lot of their pressure if they, in proposing a gambling measure, can submit it to the people. And I feel that, in the final, the people should make that decision; so what I'm doing is taking the Legislature out. Now, they will still have the right to prepare a referendum to be submitted to the people, but the people will make the final decision.

CHAIRMAN GRAYBILL: Mr. Brown.

DELEGATE BROWN: Mr. Chairman, I rise in opposition to that amendment. Mr. Habedank touched on it. But oftentimes initiatives are very loosely prepared; and this is a serious issue, an emotional one; and if you allow the Legislature to have the power, they'll take the time to investigate it, have hearings and write proper bills. And I would really be worried if we take all that power away from them, so I think we should stay with the majority report.

CHAIRMAN GRAYBILL: Mr. Harrington.

DELEGATE HARRINGTON: Mr. Chairman, fellow delegates, I rise to oppose Mr. Leuthold's amendment. I agree with Mr. Brown that the Legislature will, in their wisdom, take the time to do a good job on this, and also, I feel that it's not any more than what we have right now. All we're voting on is to do just exactly—we have now. We have the right, now, through the Legislature, to set up a referendum or initiative; so I don't think it's actually adding anything to it. Thank you.

CHAIRMAN GRAYBILL: Mr. Hanson.

DELEGATE ROBERT HANSON: Mr. Chairman, I'd like to rise in support of Mr. Leuthold's amendment. I have spent—I spent three sessions around here, and I know what they run up against. In 1969, George Johnson from Conrad brought in a bingo bill, and it was killed many times in the House, and they finally got it—he was able to bring it to life—it was killed and brought back in the Senate many times, and it was finally vetoed by the Governor. And at $10,000 a day or more, I think the Legislature has more important things to do; and this way, I think the people could make the choice.

CHAIRMAN GRAYBILL: Mr. Conover.

DELEGATE CONOVER: I've been sitting here very quietly all afternoon, and I want to thank Tom that he sure—that he didn't put the farmers in there, because we would have been in a bad shape.

CHAIRMAN GRAYBILL: Very well, Mr.—someone else was up.

Mr. Romney.

DELEGATE ROMNEY: Mr. Chairman, I just want to remind my friend from Lake County that the reason the Legislature could not do anything in '69 was because they had a constitutional inhibition.

CHAIRMAN GRAYBILL: Very well, the issue is—

Mrs. Bates.

DELEGATE BATES: Yes. I support Delegate Leuthold. I feel, however, that we should add another amendment. Would I be in order? It would be the end of this, to state that under the control of the Legislature, should the people by referendum decide.

CHAIRMAN GRAYBILL: Well, Mrs. Bates, I don't see how that's physically possible. Now, if you want to prepare some language and send it up here—In other words, if you know the initiative process, it starts by a petition in the field, and after the initiative—Are you suppose—are you saying that the people can direct the Legislature to do this?

DELEGATE BATES: No, but the—if they initiate some type of gambling or lottery, then it should be under the control of the Legislature.

CHAIRMAN GRAYBILL: I see. I see.

DELEGATE BATES: And therefore I feel there should be an addition—but just exactly how it should be worded, I don't know—but I do feel that if the Legislature is to be strong-armed each year they are in session by the people that are for gambling, it would be a bad situation.

CHAIRMAN GRAYBILL: Mrs. Bates, the Chair sees your point—that you want whatever gambling is finally allowed, if it is, to be under the control of the Legislature. Let's wait till we get the final language. If the final language is bad and that's a flaw, then someone surely will make an amendment; but let's not make that amendment now, when we got two or three more to go here.

Mr. Davis.

DELEGATE DAVIS: Mr. President. Now, is Mr. Leuthold's to substitute completely for Mr. Ask's, or is he amending part of Mr. Ask's?

CHAIRMAN GRAYBILL: No, he's merely amending part of Mr. Ask's, at the moment.

DELEGATE DAVIS: I see. Thank you.

CHAIRMAN GRAYBILL: We're sort of having a test run on him. All right, the issue is on whether or not to amend the first half of Mr. Ask's proposal, to go on the ballot, by taking out the fact that the Legislature would be authorized to do this and leaving in only that the people would be authorized through initiative and referendum. All in favor of Mr. Leuthold's amendment, say—vote Aye; opposed, vote No. Have all the delegates voted? This is a roll call vote. It's the Chair's if there's any question.

(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Take the ballot, please.

Mr. Romney, for what purpose do you arise?

DELEGATE ROMNEY: (Inaudible) (Laughter)

CHAIRMAN GRAYBILL: Well, Mr. Romney, you may announce that you would have voted No if you'd had a chance. The record will so show. Mr. Romney wants the record to show he would have voted No if his button had registered.

Aasheim	Nay
Anderson, J.	Nay
Anderson, O.	Nay
Arbanas	Nay
Arness	Nay
Aronow	Nay
Artz	Nay
Ask	Nay
Babcock	Nay
Barnard	Aye
Bates	Aye
Belcher	Nay
Berg	Nay
Berthelson	Nay
Blaylock	Aye
Blend	Aye
Bowman	Nay
Brazier	Nay
Brown	Nay
Bugbee	Nay
Burkhardt	Nay
Cain	Aye
Campbell	Nay
Cate	Nay
Champoux	Nay
Choate	Nay
Conover	Nay
Cross	Nay
Dahood	Nay
Davis	Nay
Delaney	Excused
Driscoll	Nay
Drum	Absent
Eck	Aye
Erdmann	Nay
Eskildsen	Absent
Etchart	Nay
Felt	Excused
Foster	Absent
Furlong	Nay
Garlington	Nay
Gysler	Nay
Habedank	Nay
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Absent
Harlow	Nay
Harper	Nay
Harrington	Nay
Heliker	Nay
Holland	Nay
Jacobsen	Nay
James	Aye
Johnson	Nay
Joyce	Nay
Kamhoot	Nay
Kelleher	Absent
Leuthold	Aye
Loendorf	Aye
Lorello	Nay
Mahoney	Nay
Mansfield	Nay
Martin	Nay
McCarvel	Nay
McDonough	Nay
McKeon	Nay
McNeil	Nay
Melvin	Nay
Monroe	Nay
Murray	Absent
Noble	Nay
Nutting	Aye
Payne	Nay
Pemberton	Nay
Rebal	Nay
Reichert	Nay
Robinson	Nay
Roeder	Nay
Rollins	Absent
Romney	Absent
Rygg	Nay
Scanlin	Nay
Schiltz	Nay
Siderius	Nay
Simon	Nay
Skari	Nay
Sparks	Nay
Speer	Nay
Studer	Nay
Sullivan	Nay
Swanberg	Absent
Toole	Nay
Van Buskirk	Nay
Vermillion	Nay

Wagner	Nay
Ward	Nay
Warden	Nay
Wilson	Nay
Woodmansey	Nay
Mr. Chairman	Nay

CLERK HANSON: Mr. Chairman, 12 delegates voting Aye, 77 voting No.

CHAIRMAN GRAYBILL: 77 having voted No, Mr. Leuthold's motion is defeated. We're back on Mr. Ask's proposal to place on the ballot a proposal that would say—an alternative that would give the people a chance to choose between Section 11 as it appears on page 6, and the first clause in Section 11—all forms of gambling and gift enterprises and so forth are prohibited, period. The choice would be between prohibiting gambling and prohibiting gambling unless authorized by the Legislature or the people.

Mr. Anderson.

DELEGATE OSCAR ANDERSON: I—As I said the other night, anything North Dakota can do, we can do better; and I support the Ask proposal to prove it. (Laughter)

CHAIRMAN GRAYBILL: Very well, the issue is on Mr. Ask's amendment.

Mr. Ask, do you want to close?

DELEGATE ASK: I close.

CHAIRMAN GRAYBILL: He's closed. Very well, all in favor of Mr. Ask's proposal, vote Aye; and all opposed, vote No. Has every delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Nay
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Nay
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Excused
Driscoll	Aye
Drum	Absent
Eck	Aye
Erdmann	Aye
Eskildsen	Absent
Etchart	Aye
Felt	Excused
Foster	Absent
Furlong	Aye
Garlington	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Nay
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Nay
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Absent
Leuthold	Nay
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye

McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Absent
Noble	Aye
Nutting	Nay
Payne	Nay
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Absent
Romney	Aye
Rygg	Aye
Scanlin	Nay
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Absent
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye
Mr. Chairman	Aye

CLERK HANSON: Mr. Chairman, 83 delegates voting Aye, 8 voting No.

CHAIRMAN GRAYBILL: 83 having voted Aye and 8 voting No, Mr. Ask's motion prevails. It having prevailed, we don't reach Section 11. It having prevailed, Mr. Leuthold's amendment doesn't reach Section 11. Are there other proposed amendments to Section 11?

(No response)

CHAIRMAN GRAYBILL: If not, members of the committee, you have before you, on the motion of Mr. Ask that when this committee does arise and report, after having had under consideration Section 11 as amended by his proposal, that we recommend the same be adopted. All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

CHAIRMAN GRAYBILL: It's adopted as amended. If you'll all turn to page 15 in your books.

Mr. Belcher, does the minority care to propose its new section?

DELEGATE BELCHER: Mr. Chairman—

CHAIRMAN GRAYBILL: If so, I'll have the clerk read it. Do you want it read?

DELEGATE BELCHER: Yes; if you would, please.

CHAIRMAN GRAYBILL: Will the clerk please read the minority proposal on page 15.

CLERK HANSON: "Minority Proposal Number 1. Be it proposed that there be a new constitutional section to read as follows: 'Section 12. Boundaries. The sovereignty and jurisdiction of the State of Montana shall prevail within the area encompassed by the following boundaries: Beginning at the point of intersection of the 104th meridian of west longitude and the 45th parallel of north latitude, thence clockwise west on said parallel to its intersection with the 111th meridian; south on said meridian to the crest of the Rocky Mountains; northwestward on said crest, the Continental Divide, to the summit of Lost Trail Pass, intersecting there with the southeast and the area of the Bitterroot—crest of the Bitterroot Mountains; hence northwestward on the crest of the Bitterroot Mountains and Range to the 116th meridian; north on said meridian to the 49th parallel; east on the said parallel to the 104th meridian; and south on the said meridian to the place of beginning'." Mr. Chairman.

CHAIRMAN GRAYBILL: Ladies and gentlemen, we do have some other things to finish up. We're nearly through with this article. I know it's late, but I think we'd better try to finish this article, so if you'll all stay with us and listen, we'll get through quickly. These shouldn't be very difficult matters.

Mr. Belcher.

DELEGATE BELCHER: Mr. Chairman, I move that when this committee does rise and report, that the—after having had under consideration General Government Proposal Number 12, Section 12—I think it is—it recommend the same be adopted.

Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Belcher.

DELEGATE BELCHER: This is a very short article. We did have, in our old Constitution, the boundaries of Montana as defined. They were defined by the Organic Act, too, but a man by the name of Mr. Walter Stamm from Dillon has done a lot of research on this thing, and he has come up with a little better description. If we want a boundary for the State of Montana—I don't think we're going to be taken in by Idaho or North Dakota or Wyoming or Canada or any of those other states—but if you want boundaries listed in it, I propose this boundary that is listed in your General Government Number 12.

CHAIRMAN GRAYBILL: Mr. Davis.

DELEGATE DAVIS: Mr. President, there's a gentleman from my community who's been very interested in the boundaries being in the Constitution, and when I came up here I was not very encouraged that we could justify leaving these in. But, I see North Dakota and Hawaii and all the other states left theirs in. He's done a lot of work on this, and when I compare this with that beautiful Preamble that says "the quiet beauty of our state, the grandeur of our mountains, the vastness of our rolling plains", and then you get over here and we talk about the crest of the Rocky Mountains and the Continental Divide, the summit of Lost Trail Pass intersecting with the Bitterroot Mountains, I think it ties in there. I think it's beautiful. I think we should put it in. We've got plenty of other things in that aren't near as poetic as this, and I don't think you should have to go looking through all—get a research analyst to find out where your boundaries are any more, so I would support Mr. Belcher and put it back in our Constitution. I think it would be very nice in there.

CHAIRMAN GRAYBILL: Mr. Melvin.

DELEGATE MELVIN: Mr. Chairman and fellow delegates. I submit that the description here is faulty. Now, I discussed this with the committee, and it doesn't indicate any jog for Yellowstone National Park. Now, Yellowstone National Park was formed a hundred years ago this year. Montana—the State of Montana—came into existence in 1889. More than likely, in the territorial act, this description was correct, but I submit that there's 3 miles' jog and down in the corner, that is still the property of the United States, because when I filled out the complaints before the United States Commissioner, one of the things was under the exclusive jurisdiction of the United States, and I don't think we should try to start a war with the federal government. Thank you.

CHAIRMAN GRAYBILL: Mr. Harlow.

DELEGATE HARLOW: Mr. Chairman and fellow delegates, I support these boundaries. In the research committee report, it said "all the waters within the boundaries of Montana", so if we don't have any boundaries, how do we know where we're going to get our water? Now, I do not have the fear that Delegate Melvin has. We have one other national park within the state—within the boundaries listed here—and we do not state in the boundaries that Montana includes all that land within these various boundaries except the Glacier National Park. And I do not think it is necessary or that we are jeopardizing our sovereignty by leaving that little piece of Yellowstone Park in the state of—within these boundaries on the thing. We know that's part of the National Park, the same as Glacier National Park is, and if we start excluding part of the Yellowstone National Park, we'll have a sort of a no-man's land in there that will be difficult to administer by anyone.

CHAIRMAN GRAYBILL: Mr. Brown.

DELEGATE BROWN: Mr. Chairman, I'm not going to use this word "delete" after I leave this Convention, ever again. But the reason we deleted it—it's no big thing to debate all night—but our Organic Act had one description in it; our present Constitution has a description that's different from the Organic Act; and this third one—it might be correct; I'm not sure—but like Mr.—Delegate Melvin said, there is some doubt about it—and Walter Stamm is a very fine gentleman, and I appreciate all the work he's done—but I thought if there's going to be any ambiguity or differences in description, we'd be best to leave it out, and we can't change it anyway, and I'm ready to vote. Thank you, sir.

CHAIRMAN GRAYBILL: Mrs. Robinson.

DELEGATE ROBINSON: Mr. Chairman—I'm all in favor of getting the boundaries in, but—

CHAIRMAN GRAYBILL: Mr. Romney.

DELEGATE ROMNEY: —I think that—if you'll refer to the Article I in the present Constitution, the word "Bitterroot" is spelled two words, and I did that 82 years ago and it stood the test of time until the recent corruption of it by the Forest Service, and I suggest that Style take a good look at it.

CHAIRMAN GRAYBILL: Mr. Belcher—Mr. Habedank, do you want to speak?

DELEGATE HABEDANK: Yes. Mr. Brown pointed out his reasons for deleting. The reasons of the majority for putting it in have also been explained, in that we feel that a person should not have to go to ordinances and different items of this kind to find the boundaries. I'd point out to you that if, by some stretch of the imagination, this boundary is incorrect—as it's suggested it might be, in spite of all the research—we're not going to change Montana, because of the Organic Act, anyway. We'll just have what we have, and if we claim more than we've got, Uncle Sam won't give it to us, so we might as well claim all we can. (Laughter)

CHAIRMAN GRAYBILL: Mr. Belcher, you may close.

DELEGATE BELCHER: This will be very brief. This boundary thing, I think, is something that might help us with our Constitution. There are some sentimental people who would like to see the boundaries of their state defined, and this would do it. Thank you.

CHAIRMAN GRAYBILL: Members of the committee, you have before you for your consideration, when we do rise and report, upon the recommendation of Mr. Belcher that we recommend that the minority proposal Number 1 on boundaries be included and recommended for adoption. All in favor of that motion, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

CHAIRMAN GRAYBILL: The Ayes have it, and it's adopted.

Mr. Jacobsen, you have a motion up here for a new section in General Government. May we read it?

DELEGATE JACOBSEN: Please, Mr. Chairman.

CHAIRMAN GRAYBILL: Will the clerk please read Mr. Jacobsen's motion.

CLERK HANSON: "Mr. Chairman. I move to amend Article XII, General Government, page 6, on the—of the General Government Committee report, by adding a new section to read as follows: 'Section 13. The Legislature shall provide that the State of Montana shall refrain from engaging in any monopolistic business. Any such existing monopoly must be dissolved by the Legislature in the first assembly after the adoption of this Constitution or by December 31, 1974. This section does not prevent the Legislature from regulating or taxing according to the law.' Signed: Jacobsen and Johnson." Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Jacobsen has proposed a new section to the General Government Article which has the effect of taking the State of Montana out of monopolistic businesses. It is similar to the one he had the other day—and I'm sure the purpose is the liquor control business, but I don't want to suggest that it's limited to that—but I'll let him discuss it. But that's the proposal.

Mr. Jacobsen.

DELEGATE JACOBSEN: You—Was the last proposal read there—the policing and so on? The white one I gave you this morning?

CHAIRMAN GRAYBILL: No, I think that's not on it. Do you want to read the addition?

DELEGATE JACOBSEN: The one that I had—is that—that's the one—the white one I gave you this morning.

CHAIRMAN GRAYBILL: Well, I don't—this is the only one you gave us that I know of.

DELEGATE JACOBSEN: That's the one, then. As you possibly all know, I brought this up the other day, and the exact thing has happened that Mr. Vermillion told me would happen—that we're here at 6:30 in the evening on the last article on our General Government—so I'm not going to take a lot of time, but you've all been—have the reports of the—

CHAIRMAN GRAYBILL: Mr. Jacobsen.

DELEGATE JACOBSEN: Yes?

CHAIRMAN GRAYBILL: Would you rather—I don't want to put you in a bad position—would you rather run the risk of suspending the rules on Monday morning? I'll call on you on Monday morning.

DELEGATE JACOBSEN: If—I know that a lot of delegates would like to get away at this time, and—

CHAIRMAN GRAYBILL: Well, I'm going to go through the rest of the things we have on the General Orders, but if you want to take it off now and try again—but you'll have to suspend the rules on Monday morning. I don't want you to feel that we—that you're cramped. If you want to withdraw it, you may then make a motion to suspend the rules Monday morning.

DELEGATE JACOBSEN: Well, that will fail, I am sure, so I'll go ahead with it right now. (Laughter)

CHAIRMAN GRAYBILL: That's a Hobson's choice, Mr. Jacobsen.

DELEGATE JACOBSEN: Yes. As you know, the monopoly liquor business in Montana is a political bureau of our state. It is and has been nothing more than a political football. With each change of political party, the liquor store vendors are changed, and possibly a lot of the sales people, too. If we could be assured of good businessmen or -women as vendors, it wouldn't be so bad, but this bureaucracy monopoly is nothing but political payoff for services rendered to either party. I sincerely believe we must take this opportunity to take politics out of our state government. There is just too much politics in politics. With the state out of the liquor business, we could make one more step towards trust in our elected officials and we would be creating a new industry for the private enterprise people of our state. Private enterprise, as I stated the other day, is the backbone of our nation. We would not lose one red cent by doing this but would gain millions of dollars as private enterprise would be paying taxes on not only new and improved properties, but on the inventory transferred from state stores to private stores—increased income taxes, too. You all have on your desks a paper pointing out the facts about the liquor business and a few of the many irregularities. On the reverse side are other facts and one idea how the Legislature can implement the liquor business to make sure that the state has control, policing powers, and sets prices and taxes to prevent any loss of revenue. In fact, it could gain considerably through better business practices by private enterprise. Now, look at the actual operating statement of the Montana Liquor Control Board. Just look at the tremendous expense the board pays for a four million, nine hundred and thirty thousand net profit on hard liquor, and this statement clearly shows you that salaries and commissions were, in the year 1969-1970, $1,712,489. These will go up, because the liquor vendors now are under union. The result will be we will be paying extra prices for our liquor. Freight and drayage is another item—$249,999—which is added to the cost of our liquor. There's a double shipment of this. It's shipped into Helena and then reshipped out to the stores about the state, where if private enterprise had it, I'm sure that some of the breweries even could have warehouses and so on about our state to distribute in a better manner. Industrial accident insurance, $30,000; employee benefits, $162,000, which would, of course, be going up; store audit and examiners fees, $59,673; machine rentals, $41,475. This is a total of $2,677,000-plus; and, of course, any ordinary businessman can look at that net profit figure from the Liquor Department of four million nine hundred and thirty-one thousand, and with an expense of over two million, six hundred seventy-seven thousand, this is not good business. We can save, and I was told—as I repeat again—I was told we could save over two and a half million by taking the state out of this business. Now, the expense sheet is only the start. With the employees of liquor stores unionizing—I told you that—warehouses, a new warehouse is also planned at the—to the tune of three to four million dollars. The end results, of course, of these things will be just, of course, higher taxes to you. I can refer again to the half gallon of Ancient Age liquor that sells in Denver and Cheyenne, Wyoming, for $8.30. Here we pay eleven fifty-five. Let's, through the very—throw this—turn this very expensive business over to a private enterprise with private taxes, too, and we would help finance this great state. We have added many financial problems to our next legislative body. I want to see our state grow and prosper. It can do just this and keep full control over taxes, licenses, policing and markups. Bureaucracy must be reduced. We have spent a lot of time here considering and reconsidering many articles and sections. Now, consider your vote, as of the other day, by ridding our state of this monster bureau. Just think of the advice given us by John Gardiner and recited the other day. This is our one opportunity. When I was asked to—when I decided to run for this Con Con, one of the things that I thought "Well, this is my chance to see if I can't go over to Helena and help rid our state of some of the very poor political things that are in this state." Thank you. I think there's a few more people that want to speak on this.

CHAIRMAN GRAYBILL: Very well, is there—

Mrs. Robinson

DELEGATE ROBINSON: Mr. President. I hate to do this, but I feel very strongly that this is the very same thing that Mr. Aronow proposed this morning. I think that if we do this, this really amounts to a reconsideration of a past action, and I think that we should deal with it accordingly. I don't see any difference in this and what Mr. Aronow attempted to do.

CHAIRMAN GRAYBILL: Mrs. Robinson, the Chair has thought about that, and you may be entirely right. The other day, when we discussed it in the other section, we did mention that it was a subject that probably fell much more within the ambit of General Government than the one this morning, but that may be.

DELEGATE AASHEIM: Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Aasheim.

DELEGATE AASHEIM: A point of order on this same matter. I would like to refer you to Section 159 of Mason's. This is the same substantive matter that was killed here a couple of days ago, and I think the only way we can consider it is by reconsideration.

CHAIRMAN GRAYBILL: Mr. Holland.

DELEGATE HOLLAND: I submit that this is materially different than the one the other day and we owe these gentlemen the courtesy of the vote on this because this is much broader amendment than his original; although it reaches the same business, it may go well beyond it.

CHAIRMAN GRAYBILL: The Chair can look up the language that we had the other day. Is the language that Mr. Jacobsen has proposed today substantially different than it was before?

Mr. Jacobsen.

DELEGATE JACOBSEN: The section that he just read, did that say the Legislature shall provide that by December 31, 1975—

CHAIRMAN GRAYBILL: No—

DELEGATE JACOBSEN: Is that what the one you read said?

CHAIRMAN GRAYBILL: It says, "The Legislature shall provide that the State of Montana shall refrain from engaging in any monopolistic business."

DELEGATE JACOBSEN: Well, now, this proposal I handed you this morning, Mr. President, states: "Be it proposed by the Constitutional Convention of the State of Montana: Section 1. There shall be a new constitutional section to provide as follows: 'The Legislature shall provide that by December 31, 1975, the State of Montana shall no longer engage in the business of buying and selling liquor. This section does not prevent the Legislature from regulating—from voting—'"

CHAIRMAN GRAYBILL: All right, all right—Mr. Jacobsen, first of all, I'm not going to argue with you about whether you gave it to me or not this morning, but I—the one I—you gave me I have, but that's not the one you just read, so will you, first of all, withdraw the one you've made—or the one I have—which is the one we made.

DELEGATE JACOBSEN: Mr. President, I'd like to withdraw the—

CHAIRMAN GRAYBILL: All right. Now, then, having withdrawn that, will you bring to the Chair the one you have in your hand or one—give us a copy of it. We don't have it.

DELEGATE JACOBSEN: Yes.

CHAIRMAN GRAYBILL: Just send—either send us your copy or—Oh—I don't know where the others are.

DELEGATE JACOBSEN: I gave them to you in your office this morning.

CHAIRMAN GRAYBILL: Right, and I brought them and gave them to the clerk. And that's what we're reading, so apparently you or we got mixed up and we have your old one instead of your new one.

DELEGATE JACOBSEN: That's the monopolizing one.

CHAIRMAN GRAYBILL: I understand, but that's—it's a new set that I had this morning, so you and I have gotten mixed up.

DELEGATE JACOBSEN: Yes. The monopoly business is not in this section I'm proposing. I'm strictly talking about the liquor business.

CHAIRMAN GRAYBILL: All right, now, Mr. Aasheim—Mr. Jacobsen, you do make your new one here?

DELEGATE JACOBSEN: Yes, I propose this; and if—you'll see it has policing and control powers with the Legislature.

CHAIRMAN GRAYBILL: Well, Mr. Aasheim, he has proposed a considerably different amendment here, limited to the liquor business—"The Legislature shall provide that by December 31, 1975, the State of Montana shall no longer engage in the business of buying and selling liquor. This section does not prevent the Legislature from regulating or taxing the retail or wholesale sale of liquor—regulating, controlling, policing or taxing the retail and wholesale sale of liquor." That is certainly a different matter than we discussed the other day and does seem to the Chair to fall within the ambit of General Government.

Mr. Aasheim.

DELEGATE AASHEIM: I would just like to read what the—what Mason's says: "It was an ancient rule that when a bill was once passed or rejected, another of the same substance could not be brought in again during the same session." However, they do have this alternative. They can, by reconsideration, do so—and that would be the order of business—order in which they should do it, I would say.

CHAIRMAN GRAYBILL: Well, I can't hold, Mr. Aasheim, that a bill regulating the sale of liquor—or an amendment taking us out of the liquor business is the same as an amendment taking us out of any monopolistic business. That's just not the same thing. The other is much broader, so I've got to rule that this is a different matter and it does fall within General Government. Now, I'll allow your amendment Mr.—I'll allow your motion, Mr. Jacobsen, and if anyone wants to challenge me, they can.

Mr. Harlow.

DELEGATE HARLOW: Mr. Chairman, I feel that the motion of Mr. Jacobsen is in order. He appeared before the General Government Committee—he and Mr. Johnson—proposing this same idea two or three different times. The Committee turned it down. They didn't feel that it was part of the Constitution, and I rise in opposition to his motion because, as he said, it has been debated many, many times. And I merely want to state out that, from a survey of all of the states in the United States, of the 18 control states, they drink less whiskey and make more money than do the 32 licensed states, so I see no reason why we should go out of the controlled liquor business. And I close.

CHAIRMAN GRAYBILL: So that the body understands where we are, I think Mr. Aasheim and I, at least have—we did find out that Mr. Jacobsen's first one was the old one and it's out, but his present one deals only with the liquor monopoly and not with any other monopoly and it is allowed, and we are debating it.

Mr. Berg.

DELEGATE BERG: Mr. Chairman, I rise in support of Mr. Jacobsen's motion, and I do this for a very different reason than what has yet been suggested, and that is this: Some time ago—a few days ago, as a matter of fact—I received a letter from Mr. Toole, asking me to survey what we have done to see where we might find some area where money for the State of Montana has been saved rather than expended by this Convention in the construction of this Constitution. He called my attention to a suggestion of Mr. Garlington's that, perhaps, by the consolidation of Clerks of the Court in remote counties, there was a potential possible saving in excess of $500,000, but except for that one suggestion of Mr. Garlington's, I have been unable, until now, to make any suggestions to assist Mr. Toole in this problem that he raises. And I think it is a problem that all of us will be concerned with in the next 2 months. We will be confronted with the fact that this Constitution, if it is enacted, will be a more expensive form of government than what we have enjoyed before. We will have to demonstrate the benefits that come by the increased costs that we necessarily create. Here, however, is one opportunity for this Convention to say "money has been saved"—not only immediately but throughout the years. Now, I'm not certain of Mr. Jacobsen's figures, but they are significant and they are not only an initial saving of something like $6 million, they are an annual saving of something like $2 million. They also present to the peaceful—the people the possibility of buying liquor at rates comparable to what they are in Wyoming and Colorado, and to that extent, they are a saving to the people. So there is great virtue in this proposal, not just on the proposition that we should get out of the liquor business—the state should get out of it—but on the proposition of assisting in the promotion, if you please, of this Constitution or at least an explanation of it, financially. Thank you.

CHAIRMAN GRAYBILL: Mr. Harper.

DELEGATE HARPER: How's it going to look like in the Constitution—read in the Constitution 40 years from now to, say, see this directive that is being proposed? I think the issue is still one of what kind of control the state ought to have. I don't think maybe we heard what Mr. Harlow read a moment ago—and I haven't been able to check out all these facts myself, but I assume this is correct—that 18 control states have a per capita consumption of one and thirty-eight hundredths gallons. 32 license states have a per capita consumption of one point eighty-eight—much higher. Yet, the 18 control states average $14.32 to $11 for the 32 license states in income. Now, I don't quite see a case being made that to be a control state means that you're losing money. This graph seems to be the other way around. There is one thing I can report on. The other day Mr. Jacobsen talked quite a bit about the legislative audit in 1969 finding all the things wrong with the—our public agency, the Liquor Control Board. At the time, I said one good thing about it was the legislative audit at least could audit a public board and make suggestions. He sent me a booklet—in fact, the report of the legislative audit at that time—that listed about 200 different things they thought ought to be changed in the procedure and setup of the Liquor Control Board. Mr. Mahoney and I took that legislative audit report, went down to the Auditor yesterday, said to the Auditor and the Assistant Chief Auditor, "Have any of these things been accomplished?" Their answer was—and you can check with them—that with the help of the managerial services department of our government, all of these corrections have now been made and the Liquor Control Board has asked for a new audit which, as I understand, is beginning this week or next; and they seem to think the situation is being handled in a public way. And I think that kind of responsible handling can be done as long as we have public control; but when it moves into the private sector, we not only raise consumption—which is really the big problem here—we will lower, over the long run, according to this graph, if we repeat what other licensed states have done, our revenue and we will have a monster entirely out of our control.

CHAIRMAN GRAYBILL: Mrs. Cain.

DELEGATE CAIN: There is just one short thing I want to say. I don't see how people who are interested in good government can tolerate the kind of things that have been happening within this liquor control.

CHAIRMAN GRAYBILL: Mr. Gysler.

DELEGATE GYSLER: Mr. Chairman, somebody can correct me if I'm wrong, but I believe it was in—1969 session of the Legislature that passed a bill to take the state out of the liquor business and the Governor vetoed it for—and as I recall, for one reason only, and that is it would cost the State of Montana too much money that we couldn't afford to lose. Thank you.

CHAIRMAN GRAYBILL: Mr. Johnson.

DELEGATE JOHNSON: Mr. Chairman—just say I don't think the Legislature should allow the Liquor Control Board—because there still would be one, I'm sure—to lose any money on this proposition. They put the stamp tax right on at the distillery and in such a manner and in such an amount that they don't lose any money. Certainly don't want to take them out of the business to the extent where—or in any manner so it loses tax return to the State of Montana—that's certainly not the intention in any way—and my fairly extensive study of the figures would prove to me this would be very easily done. Thank you.

CHAIRMAN GRAYBILL: Very well, Mr. Romney.

DELEGATE ROMNEY: Mr. Chairman, this same matter came up the other day. At least it has the same thrust. I think that it must be disposed of, but I don't feel that the figures that we have been—that we have had placed at our disposal provide us with any real ground for making the decision whether it is good or bad with respect to the state making a profit or not making a profit and whether or not it would make more otherwise, and I think that this is distinctly statutory. And in this connection, I would like to ask the Chairman if I may direct an inquiry to Delegate Donahue—McDonough, I mean.

CHAIRMAN GRAYBILL: Mr. McDonough.

DELEGATE McDONOUGH: (Inaudible)

DELEGATE ROMNEY: Mr. McDonough—

DELEGATE McDONOUGH: Yes, sir.

DELEGATE ROMNEY: Would you give us the benefit of your thought on whether or not this is statutory?

DELEGATE McDONOUGH: Yes, it's about a hundred percent. (Laughter)

CHAIRMAN GRAYBILL: Very well. Mr. Jacobsen, do you want to close?

DELEGATE JACOBSEN: Thank you, Mr. President. For Mr. Romney's benefit, every figure that I showed on the paper and these things are actual facts right from the State Liquor Board's own figures. This is a photostat and is taken out of this book (Illustrating), and it's by the Liquor Control Board. Our—this monopoly is something. Now, I don't know but maybe one or two of the people that are working in the liquor business as far as the state control part of it—and I would hope that if we could get the state out of this liquor business, whether it is—should be in the Constitution or not, I don't know and I—maybe it shouldn't, but for the last 15 or 20 years, the Legislature has not acted, and there have been many attempts to do this. Now, there is payoffs and so on in broken—breakage and so on; and the Legislative Auditor, the man that wrote this book that was passed out amongst all of you, this hundred and fifty-seven pages—every page, like Mr. Harper said, has discrepancies and so on—and, of course, when women vendors use liquor store money and take money out of the till and buy their groceries with—for the month, then put their own check in—this is not good business. We have all kinds of this going on and you're first—and we don't want to forget the fact that private enterprise would take over the present liquor stores. They would be licensed; there would be license fees against those. The Legislature would control this operation, and they would police it just as they're doing now. If you read the items that I put before you, it gives facts—and all of those are absolute facts from this book and from the Liquor Control Board's own figures—and in closing, I could say that Torrey and I, of course, were told by General Government that this was a legislative item, and we know that this is a legislative item, but it has not been acted upon by the Legislature. This is our opportunity to clean up this politics within our system—this here political payoff. The thing that we can do here—that is a bureaucracy we should get away from, and if you'll again think of what Mr. Gardiner said the other night, it would help you in making up your mind that we do not need this. Now, Reverend Harper is for character and morals in government, and still he will allow to persist this monster bureaucracy. Liquor monopoly, with all its opportunities for fraud and so forth, should be and can be cleaned up by private enterprise. Take it out of politics except for strict control set up by our Legislature. Think about this. We came over here to clean up our government. Let's clean it up and direct the Legislature, whether it be to the Legislative Council or whether it actually is in the Constitution, but let's direct our Legislative Council to get the state out of this liquor business. Thank you.

UNIDENTIFIED DELEGATES: Roll call.

CHAIRMAN GRAYBILL: Right. We'll have a roll call. Wait till we vote, Bruce. Very well, the issue is on the motion of Mr. Jacobsen that we add a section to the General Government Article which would say: "Section 1. There shall be a new constitutional section to provide as follows: 'The Legislature shall provide that by December 31, 1975, the State of Montana will no longer engage in the business of buying and selling liquor. This section does not prevent the Legislature from regulating, controlling, policing, or taxing the retail and wholesale sale of liquor.'" So many as shall be in favor of Mr. Jacobsen's motion, vote Aye; so many as shall be opposed, vote No. have all the delegates voted?

(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Cast the ballot.

Aasheim	Nay
Anderson, J.	Aye
Anderson, O.	Nay
Arbanas	Aye
Arness	Nay
Aronow	Absent
Artz	Aye
Ask	Nay
Babcock	Nay

Barnard	Nay
Bates	Nay
Belcher	Absent
Berg	Aye
Berthelson	Aye
Blaylock	Nay
Blend	Absent
Bowman	Nay
Brazier	Nay
Brown	Nay
Bugbee	Nay
Burkhardt	Nay
Cain	Aye
Campbell	Absent
Cate	Absent
Champoux	Aye
Choate	Absent
Conover	Absent
Cross	Nay
Dahood	Absent
Davis	Nay
Delaney	Excused
Driscoll	Absent
Drum	Absent
Eck	Nay
Erdmann	Aye
Eskildsen	Absent
Etchart	Nay
Felt	Excused
Foster	Absent
Furlong	Nay
Garlington	Aye
Gysler	Nay
Habedank	Nay
Hanson, R.S.	Aye
Hanson, R.	Nay
Harbaugh	Absent
Harlow	Nay
Harper	Nay
Harrington	Absent
Heliker	Absent
Holland	Aye
Jacobsen	Aye
James	Absent
Johnson	Aye
Joyce	Nay
Kamhoot	Aye
Kelleher	Absent
Leuthold	Absent
Loendorf	Nay
Lorello	Absent
Mahoney	Nay
Mansfield	Nay
Martin	Nay
McCarvel	Aye
McDonough	Nay
McKeon	Nay
McNeil	Absent
Melvin	Nay
Monroe	Aye
Murray	Absent
Noble	Nay
Nutting	Nay
Payne	Nay
Pemberton	Nay
Rebal	Nay
Reichert	Absent
Robinson	Nay
Roeder	Nay
Rollins	Absent
Romney	Nay
Rygg	Aye
Scanlin	Absent
Schiltz	Nay
Siderius	Nay
Simon	Aye
Skari	Nay
Sparks	Nay
Speer	Nay
Studer	Aye
Sullivan	Nay
Swanberg	Absent
Toole	Nay
Van Buskirk	Nay
Vermillion	Nay
Wagner	Nay
Ward	Nay
Warden	Aye
Wilson	Nay
Woodmansey	Nay
Mr. Chairman	Nay

CLERK HANSON: Mr. Chairman, 20 delegates voting Aye, 53 voting No.

CHAIRMAN GRAYBILL: 53 having voted No and only 20 voting Aye, the motion is defeated. Are there other new sections to be added to the General Government section—Article?

(No response)

CHAIRMAN GRAYBILL: Very well, members of the body, you've completed the consideration, on General Orders, on Committee of the Whole of—report Number 12 of General Government.

Mr. Brown, may I have a motion that this committee rise and report finally on the General Government proposal?

DELEGATE BROWN: I so move.

CHAIRMAN GRAYBILL: Very well, the motion is to rise and report finally on General Government. All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: So ordered.

(Proceedings reverted from Committee of the Whole to Convention, President Graybill in Chair)

PRESIDENT GRAYBILL: Will the clerk please read the title and signature of the Committee of the Whole report.

CLERK HANSON: "March 18, 1972. Mr. President. We, your Committee of the Whole, having had under consideration report Number 12 of the Committee on General Government, recommend as follows: That the Committee rise and finally report on General Government Article. Signed: Leo Graybill, Chairman."

PRESIDENT GRAYBILL: Mr. Brown, may I have a motion that the committee report may be accepted—and that the—may be adopted —Mr. Brown, may I have a motion that the committee report may be adopted and that the General Government proposal may be sent to Style and Drafting for inclusion in Order of Business Number 5.

DELEGATE BROWN: I so move.

PRESIDENT GRAYBILL: All in favor of adopting the committee report, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.
(No response)

PRESIDENT GRAYBILL: So ordered.
Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, that should be referred to Order of Business Number 10, I think.

PRESIDENT GRAYBILL: Right. Right. The Chair will restate the motion. All in favor of accepting the report of the Committee of the Whole and referring it to Order of Business Number—to Style and Drafting for reference back on Order of Business Number 10, please say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.
(No response)

DELEGATE SCHILTZ: Mr. Chairman.

PRESIDENT GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: I would—If I may, I'd like to announce a Style and Drafting meeting at 2 o'clock tomorrow afternoon.

PRESIDENT GRAYBILL: Style and Drafting will meet at 2 o'clock tomorrow afternoon. Before we adjourn, delegates, I have been asked to read this into the record: "Delegates: We, the pages, would like to thank you for being so kind to us this past week. We've really enjoyed serving you and getting to know each of you. It is our hope that our paths will meet again." Signed by about 13 pages, some of whose names I can't pronounce, but I'll give it to the journal. Now, ladies and gentlemen—

Mr. Brown, would you like to give us a motion for Monday?

DELEGATE BROWN: Mr. President, I move that, pursuant to the general powers vested in the Montana Constitutional Convention and in accordance with the provisions of Section 7(6) of the Enabling Act, the Montana Constitutional Convention shall recess temporarily until 9:00 a.m. on Monday—on March 20, 1972.

PRESIDENT GRAYBILL: The motion is to recess the Convention until Monday at 9:00 a.m. All in favor, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.
(No response)

PRESIDENT GRAYBILL: So ordered, and thank you.

(Convention recessed at 7:05 p.m.)

March 20, 1972
9:30 a.m.

Fiftieth Day

Convention Hall
Helena, Montana

PRESIDENT GRAYBILL: The convention will be in order. If you'll all stand, John Anderson will lead us in the Pledge of Allegiance this morning.

(Delegate J. Anderson leading pledge, with delegates joining in)

PRESIDENT GRAYBILL: If you'll remain standing, Rachell Mansfield will lead us in the invocation this morning.

DELEGATE MANSFIELD: Let us pray. Blessed are they who are poor in spirit; theirs is the kingdom of God. Blessed are they who are meek and humble; they will inherit the earth. Blessed are they who will mourn in sorrow; they will be comforted. Blessed those in hunger and thirst for justice; they will be satisfied. Blessed are they who show more mercy; they will know mercy, too. Blessed are the hearts that are clean and holy; they will behold the Lord. Blessed are they who bring peace among us; they are the children of God. Blessed those who suffer from persecution; theirs is the kingdom of God. Amen.

PRESIDENT GRAYBILL: We'll take attendance this morning by voting Aye on the voting machines.

CLERK HANSON: Mr. President, may Delegates Davis, Murray and Nutting be excused, please?

PRESIDENT GRAYBILL: They may.

CLERK HANSON: Delegate Arness, Delegate Cain, Delegate Delaney, Delegate Felt.

PRESIDENT GRAYBILL: Read them again.

CLERK HANSON: Delegate Arness, Delegate Delaney, Delegate Felt.

PRESIDENT GRAYBILL: Very well, take the attendance.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Absent
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Excused
Delaney	Absent
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Absent
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye

Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Excused
Noble	Aye
Nutting	Excused
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. President, 94 delegates present; 3 absent, and 3 excused.

PRESIDENT GRAYBILL: Very well, the journal may so show.

Before we go on the order of business today, I'd like to make a short explanation. The Voter Education Committee has made arrangements to do some last-minute filming, and so we're going to have some lights again today. Now, we're going to try and have the lights only for some short periods of time, but there will be some time when we are going to have them on. And they'll be off as soon as they stop filming; and it will not be for a half hour like it is with video, since they're filming on tape. I realize this light will make it very difficult for people while it's on, and I have already spoken with the film crew so that they will keep it on as little as possible. But we would rather get your shining faces in the camera than nothing, and it won't last very long; but please be aware of it and put up with it if you can.

Now, Order of Business Number 1, Reports of Standing Committees.

CLERK HANSON: "Mr. President. We, your Committee on Style, Drafting, Transition and Submission, transmit herewith revisions of the Local Government Article, Number 11, for the consideration of the Convention. Signed: Schiltz, Chairman." "Mr. President. We, the Committee on Style, Drafting, Transition and Submission, transmit herewith revisions of General Government Article, report Number 12, for consideration of the Convention. Signed: Schiltz, Chairman." Mr. President.

PRESIDENT GRAYBILL: Very well, Local Government and General Government are accepted and referred to Order of Business Number 10 from Style and Drafting. Order of Business Number 2, Reports of Select Committees.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number 3, Communications.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number 4, Introduction.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number 5, Final Consideration. There is none until we finish these two that we just got on Order of Business Number 10, so there's none there. —6, Adoption.

CLERK HANSON: None.

PRESIDENT GRAYBILL: —7, Motions and Resolutions.

Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. President. I move we take Proposal Number 5, Judiciary, from Style and Drafting and place it on General Orders. I do this so that it'll be in the proper order of business when we do discuss it again and if we do reconsider and if we do make a motion to amend the rules.

PRESIDENT GRAYBILL: For the information of the body, we will at this time move to have Judiciary placed on General Orders and after that we will move to have Revenue and Finance placed on General Orders to take care of the two matters that arose on Saturday. You may do as you please, but that's the purpose of Mr. Eskildsen's motion, and it is to move Judiciary Article on to General Orders from Style and Drafting. All in favor of that motion say—

Mrs. Warden. Are you up?

DELEGATE WARDEN: (Inaudible)

PRESIDENT GRAYBILL: Oh, incidentally, Mr. Arness, your presence will be noted for the journal. Very well. All those in favor of moving the Judiciary Article from Style and Drafting to General Orders, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

DELEGATES: No.

PRESIDENT GRAYBILL: The Chair is in doubt. All those in favor, vote Aye; and all those opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, 65 having voted Aye and 25 having voted No, Judiciary is moved to Order of Business Number 10.

Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. President. I move we take Proposal Number 7, Revenue and Finance, from Style and Drafting and place it on General Orders, Order of Business Number 10, for the same purpose.

PRESIDENT GRAYBILL: Very well, the motion's to move Revenue and Finance proposal from Style and Drafting to General Orders. All in favor, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

DELEGATES: No.

PRESIDENT GRAYBILL: The Ayes have it, and so ordered. So those two are now on Order of Business Number 10. Are there other motions or resolutions?

CLERK HANSON: None, sir.

PRESIDENT GRAYBILL: Order of Business Number 8, Unfinished Business.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number 9, Special Orders.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number 10.

Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. President, I move the Convention resolve itself into Committee of the Whole for the purpose of handling business under General Orders.

PRESIDENT GRAYBILL: The motion is to move this Convention into a Committee of the Whole. All in favor, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

(No response)

PRESIDENT GRAYBILL: So ordered.

(Committee of the Whole)

CLERK HANSON: Mr. President. March 20, 1972. The following committee proposals are now on General Orders: Local Government, General Government, Judiciary, Revenue and Finance.

CHAIRMAN GRAYBILL: The Chair would propose, unless there is objection, to taking up the Judiciary and Revenue and Finance matters first. Very well, the Chair is open to a motion.

Mr. Aronow.

DELEGATE ARONOW: Mr. President, I move that we suspend the rules under the Judiciary Article for the limited and—the purpose only of adding a section dealing with the clerk of the Supreme Court. You've had the sense of the proposal on your desks on Saturday; and if successful in suspending the rules, we will then move to reconsider for the purpose of adding a section providing for the office of the clerk of the Supreme Court and his election. Thank you.

CHAIRMAN GRAYBILL: Mr. Aronow, do you have any exra copies of that? The Chair and the clerk don't have copies.

DELEGATE ARONOW: Yes, I have one more.

CHAIRMAN GRAYBILL: Very well, the issue is on Mr. Aronow's motion to suspend the rules to add a section. If you happen to have Mr. Aronow's material before you—we would not add it to the General Government; we crossed that the other day. We would add it to Judiciary, but the sense of his proposal is contained in that material that he gave us last Saturday: "In the Judicial Department there shall be a clerk of the Supreme Court, who shall hold office for a term of 6 years. He shall be elected by the electors at large of the state." Is there discussion of the motion to suspend the rules and discussion of that point only?

(No response)

CHAIRMAN GRAYBILL: All right, we're ready to vote on it. Does anyone want a roll call vote? Mr. McKeon wants a roll call vote.

Mrs. Pemberton.

DELEGATE PEMBERTON: I just wanted to talk.

CHAIRMAN GRAYBILL: Very well, you may discuss the motion to suspend the rules.

DELEGATE PEMBERTON: At this point, I would like to know exactly where we are in suspending the rules for the clerk of the Supreme Court. Mr. Aronow, would you answer a question for me, please?

DELEGATE ARONOW: I'll yield, Mr. Chairman.

CHAIRMAN GRAYBILL: Mrs. Pemberton.

DELEGATE PEMBERTON: Thank you very much. I wrote you a note, but I didn't get it there in time. In suspending the rules for the clerk of the Supreme Court, this was deleted by the vote of the delegation; is that right?

DELEGATE ARONOW: That is correct.

DELEGATE PEMBERTON: And it was left out of the Constitution?

DELEGATE ARONOW: That is correct, Mrs. Pemberton.

DELEGATE PEMBERTON: In that vote, when we were discussing the clerk of the Supreme Court and other officers, this was the only one that was left out of the Constitution?

DELEGATE ARONOW: No, there was one other, and that was the State Treasurer.

DELEGATE PEMBERTON: Yes, that's right.

DELEGATE ARONOW: But that involves no problem, due to the fact that the State Treasurer may not run to succeed himself. And this is the only office—at that time, I think, we were strongly considering a short ballot; and then we changed our minds and we did leave out the clerk of the court, which seems a discriminatory type of thing.

DELEGATE PEMBERTON: I think that's why—would I be out of order in putting in another motion at this time?

CHAIRMAN GRAYBILL: Well, it's got to be another motion to suspend the rules.

DELEGATE PEMBERTON: After the consideration to suspend rules, if that should go through?

CHAIRMAN GRAYBILL: I don't know the nature of your motion, Mrs. Pemberton.

DELEGATE PEMBERTON: Would you like to hear it?

CHAIRMAN GRAYBILL: In other words —Well, Mrs. Pemberton, we have a motion to suspend the rules for the limited purpose of considering the clerk of the Supreme Court. Do you want to enlarge the purpose, is that your—

DELEGATE PEMBERTON: No, it is not to enlarge the purpose; it is to appoint a clerk of the Supreme Court instead of electing him.

CHAIRMAN GRAYBILL: Well, the Chair has Mr. Aronow's purpose as to add a section concerning the clerk of the Supreme Court.

Mr. Aronow, I realize you have suggested language, but the chair is about to rule, unless you object—do you want to make it only to elect him, Mr. Aronow?

DELEGATE ARONOW: That's my purpose at this moment, yes.

CHAIRMAN GRAYBILL: All right, now, the Chair will take the view that you have to put the narrowest one first, and, therefore, the purpose for which he is opening is suspending the rules. Now, Mrs. Pemberton is to elect—is to put in a section that would require the election of the clerk of the Supreme Court. Now, if you want to amend his motion to suspend the rules, you may. And then we'll put that to the body first; and if that passes, fine; and if not, we'll go to his. Do you want to put in to elect or appoint—I mean, do you want to—

DELEGATE PEMBERTON: I would like very much to put in an amendment to appoint a clerk of the Supreme Court. I have words for that, if you would like to have them.

CHAIRMAN GRAYBILL: No, I think I know enough. That's your purpose, right?

DELEGATE PEMBERTON: Right.

CHAIRMAN GRAYBILL: So the body understands the situation, Mr. Aronow made a motion to suspend the rules to add a section concerning the clerk of the Supreme Court by election. Mrs. Pemberton has now made a substitute motion to suspend the rules and add a section concerning the clerk of the Supreme Court by appointment. Does everyone understand the situation? We'll vote on Mrs. Pemberton's first.

Mr. Harbaugh.

DELEGATE HARBAUGH: Could I ask a question of Mrs. Pemberton?

CHAIRMAN GRAYBILL: You may.

DELEGATE PEMBERTON: Yes, sir.

DELEGATE HARBAUGH: Appointment by whom?

DELEGATE PEMBERTON: Appointment by the Supreme Court, sir.

CHAIRMAN GRAYBILL: Is there a roll call desired on Mrs. Pemberton's motion?

Mr. Holland.

DELEGATE HOLLAND: I move for a roll call vote.

CHAIRMAN GRAYBILL: Very well, we'll take a roll call vote on Mrs. Pemberton's motion. All those in favor of suspending the rules to add a section concerning the clerk of the Supreme Court by appointment, vote Aye; opposed, vote No. Has every delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, close the ballot.

Aasheim	Nay
Anderson, J.	Nay
Anderson, O.	Nay
Arbanas	Aye
Arness	Nay
Aronow	Nay
Artz	Nay
Ask	Nay
Babcock	Aye
Barnard	Nay
Bates	Nay
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Nay
Brazier	Nay
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Nay
Campbell	Nay
Cate	Nay
Champoux	Nay
Choate	Aye
Conover	Nay
Cross	Aye
Dahood	Nay
Davis	Excused
Delaney	Absent
Driscoll	Nay
Drum	Nay
Eck	Aye
Erdmann	Aye
Eskildsen	Nay
Etchart	Aye
Felt	Absent
Foster	Aye
Furlong	Nay
Garlington	Nay
Graybill	Nay
Gysler	Nay
Habedank	Aye
Hanson, R.S.	Nay
Hanson, R.	Nay
Harbaugh	Aye
Harlow	Aye
Harper	Nay

Harrington	Nay
Heliker	Nay
Holland	Nay
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Nay
Kamhoot	Nay
Kelleher	Nay
Leuthold	Aye
Loendorf	Nay
Lorello	Nay
Mahoney	Nay
Mansfield	Aye
Martin	Nay
McCarvel	Nay
McDonough	Nay
McKeon	Nay
McNeil	Nay
Melvin	Nay
Monroe	Aye
Murray	Excused
Noble	Nay
Nutting	Excused
Payne	Aye
Pemberton	Aye
Rebal	Nay
Reichert	Nay
Robinson	Nay
Roeder	Nay
Rollins	Nay
Romney	Nay
Rygg	Nay
Scanlin	Aye
Schiltz	Nay
Siderius	Nay
Simon	Nay
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Nay
Swanberg	Absent
Toole	Nay
Van Buskirk	Nay
Vermillion	Nay
Wagner	Nay
Ward	Aye
Warden	Aye
Wilson	Absent
Woodmansey	Aye

CHAIRMAN GRAYBILL: Mr. Dahood.

DELEGATE DAHOOD: Mr. Chairman, I inadvertently pressed the wrong button; I want to vote Nay on this particular motion.

CHAIRMAN GRAYBILL: Very well, Mr. Dahood, the ballot—the vote not having been announced, Mr. Dahood may be shown as voting Nay.

CLERK HANSON: Mr. President, 35 delegates voting Aye, 58 voting No.

CHAIRMAN GRAYBILL: 58 having voted No and 35 Aye, Mrs. Pemberton's motion is defeated. We're now on Mr. Aronow's motion to suspend the rules to add a section concerning the clerk of court to be selected by election.

Mr. Harlow.

DELEGATE HARLOW: Mr. Chairman, I would like to expand that motion of Mr. Aronow's a little bit by adding these words—we all realize why we are suddenly desirous of having the Supreme Court office elected, and I think this will solve our dilemma and still give us back to our original thinking—that if I add these words that—after Mr. Aronow's: "The clerk of Supreme Court's office shall be elected only so long as Tom Kearney holds office." (Laughter) "Thereafter the office shall be appointed by the Supreme Court." If you do not wish to be so specific—however, I think it wouldn't hurt to have Tom Kearney's name in the Constitution—take off his and say "so long as the present incumbent holds office".

CHAIRMAN GRAYBILL: All right, I take it to be you want to make a substitute motion to Mr. Aronow, is that right, Mr. Harlow?

DELEGATE HARLOW: Yes, Mr. Chairman.

CHAIRMAN GRAYBILL: Pardon?

DELEGATE HARLOW: Yes, Mr. Chairman. I'll move that this be added to—

CHAIRMAN GRAYBILL: All right, I've got it. See if I've stated it right. You want to suspend the rules to add a section concerning the clerk of the court to be elected for the—until the incumbent is no longer elected—or to be elected for the—as long as the incumbent holds office, is that right?

DELEGATE HARLOW: Yes. And from thereon the office shall be appointed by the Supreme Court.

CHAIRMAN GRAYBILL: And thereafter appointed?

DELEGATE HARLOW: Yes.

CHAIRMAN GRAYBILL: Mr. Aronow, would you like to talk to that?

DELEGATE ARONOW: Mr. Chairman, I resist the amendment on the ground that I don't think that the offered amendment is made in good faith. Besides that, it's not good constitutional law; it has no place in the Constitution, and I hope that the delegates will vote against the amendment made by Mr. Harlow.

CHAIRMAN GRAYBILL: Mr. Champoux.

DELEGATE CHAMPOUX: Mr. President, fellow delegates. You know, if this is really the problem, I think we're wasting time in this Convention. If the real problem is this one gentleman, I'm sure that Style and Drafting can take care of this in the transitional article by providing that present officeholders, until their term expires—this will take care of it. If that's all there is to it, leave it to Style and Drafting. Thank you.

CHAIRMAN GRAYBILL: Now, we're not going to discuss the substance, but if you want to discuss Mr. Harlow's motion to suspend the rules, okay.
Mr. Harper.

DELEGATE HARPER: May I ask a question, Mr. Chairman, that would have something to do with how I vote on any of these things and maybe to clear up a point? If we remove an office from the Constitution that's in the present Constitution that now is an elected office like this one, does this mean that automatically there will be no election or does the Legislature still have the choice? For example, could the Treasurer appear on a ballot as long as the Legislature decided that it should be an elective office; or when he is not mentioned in the Constitution, is he automatically—

CHAIRMAN GRAYBILL: I think your question's substantive, and I don't know who wants to answer it, but I'll take a shot at it. I think we're merely removing it from the Constitution and that the office—but I haven't checked the statutes to see whether the clerk of the court is statutory, but I presume he's also statutory. If anybody knows to the contrary, I wish they'd clear me up.
Mr. Mahoney.

DELEGATE MAHONEY: Mr. Chairman, I would have to resist this motion. Now, either we make a decision to elect the clerk of the Supreme Court or we don't. This would be awful; I mean you wouldn't—Mr. Kearney wouldn't know whether he could run or not. I mean, this would be a very touchy thing, and if somebody else come along—now I think we've got to come out here under—and go under the Aronow motion and vote it up or down. This is my thinking, and I would hesitate to see in for one man. This is not in Constitution, Legislature could do it, but—

CHAIRMAN GRAYBILL: Very well, are you ready for the vote? A roll call has been demanded.
Mr. Harlow.

DELEGATE HARLOW: Just one remark. Mr. Aronow said that my motion's not made in good faith; it is made in good faith. This was not a facetious motion; and as we know that we are sympathetic to the present incumbent, we're not sympathetic to having the office elective. Thank you.

CHAIRMAN GRAYBILL: Has a roll call been demanded on Mr. Harlow's—? Mr. Studer, you demand one; okay. Very well, so many as are in favor of Mr. Harlow's motion, which is to suspend the rules to add a section on the clerk of court to be elected during the—as long as the present incumbent's there and thereafter be appointed, please vote Aye; and opposed, vote No. Has every delegate voted?
(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to change his vote?
(No response)

CHAIRMAN GRAYBILL: Take the ballot.

Aasheim	Nay
Anderson, J.	Nay
Anderson, O.	Nay
Arbanas	Aye
Arness	Nay
Aronow	Nay
Artz	Nay
Ask	Nay
Babcock	Nay
Barnard	Nay
Bates	Nay
Belcher	Nay
Berg	Nay

Berthelson	Aye
Blaylock	Nay
Blend	Nay
Bowman	Nay
Brazier	Absent
Brown	Nay
Bugbee	Nay
Burkhardt	Nay
Cain	Nay
Campbell	Aye
Cate	Nay
Champoux	Nay
Choate	Nay
Conover	Nay
Cross	Aye
Dahood	Nay
Davis	Excused
Delaney	Absent
Driscoll	Nay
Drum	Nay
Eck	Nay
Erdmann	Aye
Eskildsen	Nay
Etchart	Nay
Felt	Absent
Foster	Nay
Furlong	Nay
Garlington	Nay
Graybill	Nay
Gysler	Nay
Habedank	Aye
Hanson, R.S.	Nay
Hanson, R.	Nay
Harbaugh	Nay
Harlow	Aye
Harper	Nay
Harrington	Nay
Heliker	Nay
Holland	Nay
Jacobsen	Nay
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Nay
Kelleher	Aye
Leuthold	Nay
Loendorf	Nay
Lorello	Nay
Mahoney	Nay
Mansfield	Nay
Martin	Nay
McCarvel	Nay
McDonough	Nay
McKeon	Nay
McNeil	Nay
Melvin	Aye
Monroe	Aye
Murray	Excused
Noble	Nay
Nutting	Excused
Payne	Aye
Pemberton	Aye
Rebal	Nay
Reichert	Nay
Robinson	Absent
Roeder	Nay
Rollins	Aye
Romney	Nay
Rygg	Nay
Scanlin	Aye
Schiltz	Nay
Siderius	Nay
Simon	Nay
Skari	Nay
Sparks	Nay
Speer	Absent
Studer	Nay
Sullivan	Nay
Swanberg	Absent
Toole	Aye
Van Buskirk	Nay
Vermillion	Nay
Wagner	Nay
Ward	Absent
Warden	Nay
Wilson	Nay
Woodmansey	Nay

CLERK HANSON: Mr. President, 18 voting Aye, 72 voting No.

CHAIRMAN GRAYBILL: 72 having voted No and only 18 having voted Aye, the motion is defeated. We're back on Mr. Aronow's original motion to suspend the rules to add a section concerning the clerk of the Supreme Court to be elected.

Mr. Choate.

DELEGATE CHOATE: Mr. Chairman, just a point of clarification. Section 9 of our present Article VIII does provide a constitutional position for the clerk of the Supreme Court, to be elected for 6 years.

CHAIRMAN GRAYBILL: I—What are you talking about, Section 9 of what?

DELEGATE CHOATE: Section 9 of Article VIII of the present Judicial Article in our present Constitution does provide for that office constitutionally for a 6-year term.

CHAIRMAN GRAYBILL: Well, now you've raised a question which I don't think is correct, Mr. Choate, so the Chair will check it. Oh, the present Constitution; I see—I thought you meant the one we'd adopted, okay.

Mr. James.

DELEGATE JAMES: Mr. Chairman, would Mr. Aronow yield?

CHAIRMAN GRAYBILL: Mr. Aronow?

DELEGATE ARONOW: I'll yield, Mr. Chairman.

DELEGATE JAMES: Cedor, if Tom Kearney is selected, as I assume he will be in the primary, he will run this fall for a 6-year term, is that right?

DELEGATE ARONOW: I don't know whether his term expires at this time or not, but when he does run, he will run for the 6-year term if my motion to suspend the rules carries and if motion to reconsider carries and then you decide here and the new Constitution is adopted. Under the old Constitution, he would run for a 6-year term; that is correct.

DELEGATE JAMES: Will Mr. Aronow yield?

CHAIRMAN GRAYBILL: He may, but the Chair is going to be awfully strict on making it concerning the motion to suspend the rules and not the substance of the matter.

DELEGATE ARONOW: (Inaudible)

DELEGATE JAMES: Okay, I was going to ask something on the substance and not the rules.

CHAIRMAN GRAYBILL: Yeah, let's try and stay off the substance; everybody understands what the purpose of the motion is.

Mrs. Robinson.

DELEGATE ROBINSON: Mr. President, I'd like to speak in opposition to the motion to reconsider—to suspend the rules, rather. It makes no difference, the *Revised Codes of Montana* in Title 82, beginning at chapter 5, clearly stipulate that there must be a clerk of the Supreme Court, who must be elected by the electors at large of the state and hold this office for a term of 6 years. Until the Legislature acts at some time in the future, there will continue to be a clerk of the Supreme Court elected by the State of Montana regardless of what we do in the Constitution, since we did not reconsider to make it an appointed office.

CHAIRMAN GRAYBILL: Very well. We'll have a roll call vote. So many as are in favor of Mr. Aronow's motion to suspend the rules to add a section concerning the clerk of Supreme Court to be elected, vote Aye; and so many as are opposed, vote No. Has every delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Nay
Arbanas	Nay
Arness	Nay
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Absent
Berg	Aye
Berthelson	Nay
Blaylock	Nay
Blend	Nay
Bowman	Nay
Brazier	Absent
Brown	Nay
Bugbee	Nay
Burkhardt	Nay
Cain	Aye
Campbell	Nay
Cate	Nay
Champoux	Nay
Choate	Aye
Conover	Aye
Cross	Nay
Dahood	Aye
Davis	Excused
Delaney	Absent
Driscoll	Aye
Drum	Aye
Eck	Nay
Erdmann	Aye
Eskildsen	Aye

Etchart	Aye
Felt	Absent
Foster	Nay
Furlong	Nay
Garlington	Nay
Graybill	Nay
Gysler	Aye
Habedank	Nay
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Nay
Harlow	Nay
Harper	Nay
Harrington	Aye
Heliker	Nay
Holland	Aye
Jacobsen	Aye
James	Nay
Johnson	Nay
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Nay
Loendorf	Nay
Lorello	Aye
Mahoney	Aye
Mansfield	Nay
Martin	Aye
McCarvel	Aye
McDonough	Nay
McKeon	Aye
McNeil	Aye
Melvin	Nay
Monroe	Aye
Murray	Excused
Noble	Aye
Nutting	Excused
Payne	Nay
Pemberton	Nay
Rebal	Aye
Reichert	Nay
Robinson	Nay
Roeder	Nay
Rollins	Nay
Romney	Aye
Rygg	Aye
Scanlin	Nay
Schiltz	Aye
Siderius	Aye
Simon	Nay
Skari	Nay
Sparks	Nay
Speer	Nay
Studer	Nay
Sullivan	Aye
Swanberg	Nay
Toole	Nay
Van Buskirk	Aye
Vermillion	Aye
Wagner	Nay
Ward	Nay
Warden	Nay
Wilson	Aye
Woodmansey	Nay

CLERK HANSON: Mr. Chairman, 44 delegates voting Aye, 49 voting No.

CHAIRMAN GRAYBILL: 49 delegates having voted No, the motion to suspend the rules is defeated. Very well, the Chair will entertain a motion from Mr. Rygg concerning Revenue and Finance.

DELEGATE RYGG: I believe the clerk has it there; does he want to read it?

CHAIRMAN GRAYBILL: Well—

DELEGATE RYGG: All right. Mr. Chairman, I move to suspend the rules, and my purpose is to make a motion to reconsider subsection 2 of Section 6 of Revenue and Finance Article for the specific and limited purpose only of striking the last 12 words thereof.

Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Rygg, excuse me. Would you restate your motion; I was interrupted.

DELEGATE RYGG: My motion is to suspend the rules, Mr. Chairman.

CHAIRMAN GRAYBILL: For what purpose?

DELEGATE RYGG: My purpose would then be, if it should carry through reconsideration, to make a motion to reconsider subsection 2 of Section 6 of the Revenue and Finance Article for the specific and limited purposes only of striking the last 12 words thereof.

CHAIRMAN GRAYBILL: Very well, the Chair understands that you want to make a motion to suspend the rules so that this body can reconsider Revenue and Finance, Section 6, sub. 2, for the specific purpose of striking 12 words. Is that correct?

DELEGATE RYGG: That's correct, Mr. Chairman.

CHAIRMAN GRAYBILL: Very well, make your—Do you have some discussion, Mr. Rygg?

DELEGATE RYGG: I'll be very brief. I would like to state the reason for this, though, if I may. Apparently the Revenue and Finance Committee invaded the General Government territory when we put in these last 12 words, and the majority of the committee believes we would be better off by retreating from this General Government domain. Now, we admit that deleting these 12 words will make a substantive change, because having this initiative was an extra safeguard, that's true. On the other hand, I seriously doubt if this initiative would ever be used, because with only a 60-percent majority needed, I honestly feel that the electorate could influence their Legislators enough to get this three-fifths vote and they would not have to go the initiative route. Now the initiative, of course, would still be available under General Government's Article, although it would be a little more difficult under that article, I will admit. But I do believe that, because of the fact that it is only a three-fifths vote and that the people, I think, could get the legislators to do that, I think that in order to avoid confusion and have any ambiguity at all in the two articles, I think we would be better off in sacrificing this small safeguard and correcting the Constitution to that extent. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: All right, now, I think the body understands that Mr. Rygg wants to suspend the rules for the specific purpose of amending Revenue and Finance 6, sub. 2, to strike 12 words, and that it does make a substantive change. Is there other discussion about the motion to suspend the rules only?

Mr. Loendorf.

DELEGATE LOENDORF: Mr. Chairman, I support the motion to suspend the rules for this purpose. The result of it will remove what I think is a clear conflict between this section and Section 4 of the General Government report Number 12; and I don't think we should let our fear of possibly opening up a whole article keep us from making this correction. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Foster.

DELEGATE FOSTER: Mr. Chairman and fellow delegates, I resist the motion as stated. I think that this is a much too narrow a limitation to really consider the subject that we have before us which is, as I understand it, at least twofold; one in stating language which expresses the intent of the original majority position of the committee and the original vote taken by this body. And I would move to amend the motion of Delegate Rygg by stating "deleting or clarifying" the last—what is it—12 words of the section.

CHAIRMAN GRAYBILL: To delete or clarify the last 12 words of Section 6, sub. 2; is that right, Mr. Foster?

DELEGATE FOSTER: Yes, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Foster now has a substitute motion to delete or clarify—to suspend the rules for the purpose of deleting or clarifying the last 12 words of Section 6, sub. 2. Mr. Foster, if you can, discuss that without getting off the suspension of the rules.

DELEGATE FOSTER: Well, I would speak simply to the point that I think there was some confusion expressed in exactly what these words were intended for, and I think the basic intent of Mr. Rygg was to clarify a confusing point. And I think if we limit it to deleting it, that, in fact, we have limited it unnecessarily and that we should be also allowed to consider it before this body, clarifying the words. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Rygg.

DELEGATE RYGG: Mr. Chairman, I would like to resist the substitute motion just for this reason: that we tried several times on Saturday to get language would clarify this and still be in conformity with Section 4 of General Government. We were unable to do so. We did talk to one member of the General Government Committee, and it was his—I don't think the committee, maybe, but at least it was his—and I don't know about the rest of them—that about the only way we could do would be to delete it so we could be in conformity. So we just feel that there isn't any way we can make it clear, and that is why we have taken this route, so I resist the motion. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Habedank.

DELEGATE HABEDANK: Mr. President, I resist the motion to amend. I think the

Revenue and Finance Committee have taken the only alternative for clarification. If you'll look at what they have done, they're striking "or by initiated measure approved by a majority of the qualified electors". Under the General Government Article, initiation is possible now to amend the Constitution; and unless you're going to have a hopeless conflict between the two, it is necessary to have this whole phrase stricken. And I think the approach taken by the Revenue and Finance Committee is the only plausible one; otherwise, you'll be trying to write legislation on this floor which is just going to get us into more trouble. And the solution they have made is clear, it's unequivocal, and I think we should support them in this. And further, I think the Local Government Committee was led to believe by a lot of people that this would be taken care of when it reached this point of our convention. Thank you, Mr. President.

CHAIRMAN GRAYBILL: Very well. Is there other discussion? If not, we'll have a vote; and I presume someone wants a roll call. Mr. Foster does. Is there any other discussion? Very well, the issue is on Mr. Foster's motion to suspend the rules to delete or clarify the last 12 words of Section 6, sub. 2. So many as shall be in favor of that, vote Aye; so many as shall be opposed, vote No. Has every delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Has every delegate voted?

(No response)

CHAIRMAN GRAYBILL: Very well, take the—

Mr. Simon—Mr. Studer—excuse me—Mr. Scanlin, for what purpose do you rise?

DELEGATE SCANLIN: For a little more clarification.

CHAIRMAN GRAYBILL: You're out of order. You may only rise to explain your vote at this time. I'm sorry.

DELEGATE SCANLIN: Can I cancel my vote out?

CHAIRMAN GRAYBILL: No, you can't cancel your vote out; I've closed it, but I haven't taken it. Does anybody else want to explain their vote before we take it?

(No response)

CHAIRMAN GRAYBILL: You may cast the ballot, Mr. Clerk. Once I push the button, you can't change it; you can't explain it until we announce it.

Aasheim	Nay
Anderson, J.	Nay
Anderson, O.	Nay
Arbanas	Nay
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Absent
Babcock	Aye
Barnard	Nay
Bates	Aye
Belcher	Nay
Berg	Nay
Berthelson	Nay
Blaylock	Nay
Blend	Nay
Bowman	Nay
Brazier	Absent
Brown	Nay
Bugbee	Nay
Burkhardt	Aye
Cain	Nay
Campbell	Absent
Cate	Aye
Champoux	Aye
Choate	Nay
Conover	Aye
Cross	Nay
Dahood	Nay
Davis	Excused
Delaney	Absent
Driscoll	Absent
Drum	Nay
Eck	Aye
Erdmann	Nay
Eskildsen	Aye
Etchart	Nay
Felt	Absent
Foster	Aye
Furlong	Aye
Garlington	Aye
Graybill	Nay
Gysler	Nay
Habedank	Nay
Hanson, R.S.	Nay
Hanson, R.	Nay
Harbaugh	Nay

Harlow	Aye
Harper	Aye
Harrington	Absent
Heliker	Nay
Holland	Nay
Jacobsen	Nay
James	Aye
Johnson	Nay
Joyce	Nay
Kamhoot	Nay
Kelleher	Aye
Leuthold	Nay
Loendorf	Nay
Lorello	Nay
Mahoney	Aye
Mansfield	Aye
Martin	Nay
McCarvel	Nay
McDonough	Nay
McKeon	Nay
McNeil	Nay
Melvin	Nay
Monroe	Aye
Murray	Excused
Noble	Nay
Nutting	Excused
Payne	Nay
Pemberton	Nay
Rebal	Nay
Reichert	Nay
Robinson	Nay
Roeder	Nay
Rollins	Nay
Romney	Nay
Rygg	Nay
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Nay
Skari	Nay
Sparks	Nay
Speer	Nay
Studer	Nay
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Nay
Wagner	Nay
Ward	Nay
Warden	Nay
Wilson	Aye
Woodmansey	Nay

CLERK HANSON: Mr. Chairman, 29 delegates voting Aye, 61 voting No.

CHAIRMAN GRAYBILL: Very well, 61 having voted No and 29 having voted Aye, that motion is defeated. We're now on Mr. Rygg's original motion to suspend the rules to move that Section 6, sub. 2, be reconsidered and amended by striking the last 12 words only. Is there further discussion?

Mr. Scanlin, is there anything you want clarified?

DELEGATE SCANLIN: No.

CHAIRMAN GRAYBILL: Okay. Roll call vote? A roll call vote, very well. So many as shall be in favor of Mr. Rygg's motion to suspend the rules, please vote Aye; so many as shall be opposed, please vote No. Has every delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, we'll cast the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Nay
Artz	Nay
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Absent
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Absent
Cate	Aye
Champoux	Nay
Choate	Aye
Conover	Aye
Cross	Aye

Dahood	Aye
Davis	Excused
Delaney	Absent
Driscoll	Absent
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Absent
Foster	Nay
Furlong	Nay
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Absent
Heliker	Aye
Holland	Aye
Jacobsen	Absent
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Nay
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Nay
Murray	Excused
Noble	Aye
Nutting	Excused
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Nay
Van Buskirk	Nay
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. Chairman, 81 delegates voting Aye, 9 voting No.

CHAIRMAN GRAYBILL: 81 delegates having voted Aye and 9 delegates having voted No, the rules are suspended and we will consider Revenue and Finance, Section 6, sub. 2.

Mr. Rygg.

DELEGATE RYGG: Mr. Chairman. Having voted on the prevailing side, I move to reconsider subsection 2 of Section 6, the Revenue and Finance Article, for the specific and limited purpose only of striking the last 12 words thereof.

Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Rygg moves to reconsider Section 6, sub. 2, of the Revenue and Finance Article for the specific purpose of striking the last 12 words.

Mr. Rygg.

DELEGATE RYGG: I don't believe there's any further explanation needed at this time. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: This motion is on reconsideration only and not on the matter. Is there further discussion?

(No response)

CHAIRMAN GRAYBILL: All in favor of reconsidering Section 6, sub. 2, for that purpose, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

CHAIRMAN GRAYBILL: It's adopted.
Mr. Rygg.

DELEGATE RYGG: I move to amend subsection 2 of Section 6, on line 16 of page 2, by inserting a period after the word "Legislature" and eliminating the last 12 words.

CHAIRMAN GRAYBILL: Would you give me your page reference again.

DELEGATE RYGG: It's on the final draft, Order of Business Number 5, Final Consideration, Number 7; it's on page 2, line 16.

CHAIRMAN GRAYBILL: Very well. If you happen to have that one before you—that's the Order of Business Number 5 on page 2, line 16—put a period after the word "Legislature"; if you have your other books, it's in subsection 2. Put a period after the word "Legislature" and strike "or by initiative measure approved by a majority of the qualified voters". That's the motion: to amend Section 6, sub. 2, by striking the last 12 words, which has the effect of striking the "initiative by the people" language.
Mr. Rygg.

DELEGATE RYGG: Mr. Chairman, I don't believe I should spend much time on this. I think the explanation I gave is the only one I can give; that we were unable to clarify this and the only solution we see is to delete these 12 words, which we admit is a substantive change. But we feel, in the interest of having less ambiguity in the Constitution, it would be in the best interest to let this on small safeguard go. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Is there any other discussion?
Mr. Foster.

DELEGATE FOSTER: Mr. Chairman and fellow delegates. I'll try and be as brief as possible on this. My primary objection to this motion is that the strongest argument that was made for having anything at all in this Constitution to give special interest—special consideration to the highway group was that this was something that was needed by the people of Montana; this is something that was popular; this is something that everyone felt was important; this is something that everyone felt we had to have. At the time that this initiative provision was put in, it was the thinking of this body that, at the time when this was no longer needed, the time when this was no longer necessary—as everyone realizes, it will become necessary in the fairly near future—that then the people would have an easy opportunity of removing it. We have just taken that opportunity away from them if we approve this particular provision to take it out again, because, in fact, then we have constitutionalized the advantage, the special interest, the special consideration for the highways, because it will then have the same status as any other provision in the Constitution. In other words, if it is necessary for the people to take it out, they would have to do the same as any other amendment to the Constitution. We have the situation that we've given a supermajority to the special highway interests in the Legislature by giving them a 60-percent voting need to change it, and so as a result we've made it much easier to retain it in the Legislature. And now we're making it more difficult for the people, by popular demand, to remove this provision. I think it's unwise and I think it's not in keeping with the general philosophy of this body when we passed it in the Committee of the Whole, when we passed it in Style and Drafting, and when we passed it on final consideration. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Toole.

DELEGATE TOOLE: Mr. Chairman, I agree with Delegate Foster about this wholeheartedly. I'm very much interested in keeping those last 12 words in there, but I don't want to create an impossible constitutional situation for some future Supreme Court. And I wonder if Mr. McDonough would yield to a question.

CHAIRMAN GRAYBILL: Mr. McDonough?

DELEGATE McDONOUGH: Yes, sir.

DELEGATE TOOLE: Do you foresee an impossible constitutional conflict if we leave the 12 words in there?

DELEGATE McDONOUGH: I foresee a number of lawsuits, possibly on whether or not we need 5 or 10 percent on an initiative petition to change this; possibly whether or not, if it is changed by initiative, how long does it last for the budgetary period or does it last forever; possibly are we only removing the restriction that they can't be used for other purposes or can we also by initiative extend it to say—earmark it for some other purpose other than the general fund. I can see a number of questions being raised by this thing in here as it is, and especially in conflict with the General Government's Article.

CHAIRMAN GRAYBILL: Mr. Toole.

DELEGATE TOOLE: Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Jacobsen was up next.

DELEGATE JACOBSEN: Mr. President. May I ask a question of Mr. Rygg?

CHAIRMAN GRAYBILL: Mr. Rygg, will you yield?

DELEGATE RYGG: (Inaudible)

DELEGATE JACOBSEN: Sterling, didn't you say that Article IV—or Section 4 of Article XII does the same thing as these 12 words do?

DELEGATE RYGG: Are you talking about Section 4, General Government?

DELEGATE JACOBSEN: Yes, General Government. Doesn't this allow the people to do the same thing on all matters of initiative?

DELEGATE RYGG: Well, not exactly, because, as Mr. McDonough mentioned, or if we take this out, I think it would be 10 percent, or otherwise it could be 5. So, as I stated earlier, they can still do it, but it would be more difficult; that is true. So it isn't just the same as Section 4; it requires more signers.

DELEGATE JACOBSEN: More signers in the general—

DELEGATE RYGG: Yes, that's my understanding.

DELEGATE JACOBSEN: Yeah, thank you.

CHAIRMAN GRAYBILL: Mr. Scanlin was next.

DELEGATE SCANLIN: Mr. Chairman, this was the area of my confusion. As I understand it, our reason for trying to remove these 12 words was to get the initiative out of the appropriation business. Am I wrong in that? I mean, the people of the State of Montana have no right to appropriate money by themselves except through their duly elected members of the Legislature. I thought that was the area of discussion.

CHAIRMAN GRAYBILL: Mr. Scanlin, your question is interesting, and I think some of the lawyers on the floor intend to answer it.

Mr. Joyce was up first.

DELEGATE JOYCE: It seems to me that Delegate Scanlin is correct. What we're trying to do, as I understand it, by the amendment offered by the Revenue and Finance Committee, is just to delete what inadvertently was inserted, which would give the people, by initiative, the power to appropriate money, which we all concede just can't be so. But I respectfully submit that Delegate Foster is in error in thinking that, by deleting these words, that it therefore requires for all time that the first sentence remain in the Constitution. There are several ways that the people can take this out, because—by simply having the Legislature submit a constitutional referendum to delete it, or the people, by initiative, can propose a constitutional convention—a constitutional amendment that will delete the words—so that it seems to me that it's perfectly proper to delete these words to make it perfectly clear that the people cannot appropriate money by initiative, but at the same time we still leave all the options open for amending the Constitution to delete the first sentence should the time ever arise when it's no longer thought desirable public policy to require that the highway funds be earmarked.

CHAIRMAN GRAYBILL: Mr. Dahood.

DELEGATE DAHOOD: Mr. Chairman. I certainly agree with the principles that have been established by Delegate Foster, and I think most of us agree with him. What he is overlooking is the fact that we have an absolute unwieldy budget situation if we leave those 12 words in. It would be like a corporation having two boards of directors deciding on what should be within the budget, what is required by way of appropriation of the corporate funds. And if we leave this situation in, then we're going to interfere with the power of the Legislature to work on a budget and to appropriate money in a sensible, solid fiscal manner. And for that reason, I submit that Chairman Rygg is absolutely correct that these particular words must be removed from that section. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Berg.

DELEGATE BERG: Mr. Chairman. As I view this matter, there is an irreconcilable conflict between Section 4 of General Government, subsection 1, which reads: "The people may enact laws by initiative on all matters except appropriations of money." Whereas, the provision in—

CHAIRMAN GRAYBILL: Section 6—

DELEGATE BERG: —Section 6 of the article we now are considering is—such revenue may be appropriated for other purposes: (1) by a three-fifths vote of the members of each house, or (2) by initiated measure approved by a majority of the qualified electors. So that in General Government we are saying, by initiative, money may not be appropriated; but if we leave these words in subsection 2 of Section 6, we are saying exactly the opposite—that it may be so appropriated. And in my mind, the inconsistency is one that the court, I am sure, could not resolve. Therefore, for consistency's sake, it should be removed from subdivision 2 of Section 6.

CHAIRMAN GRAYBILL: Mr. Foster.

DELEGATE FOSTER: Mr. Chairman and fellow delegates. I hate to take issue with three extremely competent lawyers, but I want to point out several inconsistencies here that they have presented. First of all, Mr. Joyce's indication that, in fact, if we take these words out, would leave it exactly the same are certainly not accurate. It would require a 10-percent petition of the people instead of a 5-percent petition, and I submit that 10 percent is about 10 times as hard to get as 5 percent. You get into a situation there where you have to get people to sign something on a petition, and 10 percent is extremely more difficult to get than 5 percent. Now, in relation to the question that Delegate Dahood and Delegate Berg have raised, there is some lack of clarity in subsection 2, on page 2 of the Revenue and Finance Article, but I submit that it is certainly not clear in the area of a conflict, because in reality the court could very easily rule that, by initiative, the people could allow the Legislature to appropriate, which was the intent in the first place. I submit that that is certainly what was the intent of this body when we passed it and was the intent of the committee when they presented it. Now, the courts might rule that, in fact, the people could appropriate, but I submit, in view of the section as we have presently passed it under General Government, that it's very unlikely that the court would rule in that direction. And this, in fact, was the position taken, in my recollection anyway, by Delegate Dahood on Saturday. And I submit that, even though I had hoped that we could clarify this language in this discussion, that in fact the position, if we leave it as is, is certainly not untenable. It seems to me that the court, in their wisdom, will rule, in fact, under this wording that the people, by initiative, may allow the Legislature to appropriate from this particular fund; and I do not think it is an untenable situation for the courts to rule upon. I think it should be left as it is. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Holland.

DELEGATE HOLLAND: Mr. Chairman and fellow delegates. I hate to see Mr. Foster boxed in by all these fine legal minds. In the first place, in Mr. Berg's argument that it's irreconcilable, I don't agree with Mr. Berg at all. I seldom do, I suppose. The general ruling is when there is a general prohibition and another provision which is specific, the specific will take precedence over the general exception. However, I think the thing—if the committee here really desires to keep the initiative and the referendum in, the solution is not to amend the highway antidiversion act, but go to Section 4 of the initiative act, where there is a prohibition against the people having initiative on all matters except appropriation of money, and put in after that "except as provided elsewhere in this Constitution". Then you have no conflict at all. Now as to what Mr. McDonough has said about the fact that the initiative might be difficult for the court to interpret as to whether or not it applies to one session—as for this budget only or things like that, well, of course, if the initiative is carefully drawn, why, there is no necessity for the court to make such an interpretation. If it is carelessly drawn, I agree with Mr. McDonough entirely, but this is the danger of initiative—very often they are carelessly drawn. But to say we have to knock out this whole thing because Section 4 has some conflict, I do not agree with, because all we've got to do is come back to Section 4—in the first place, I think an interpretation would be the specific takes over the general. That is, the highway referendum, being specific, would take over the general Section 4 of the Government. But if the committee truly desires to keep it in there, all we've got to do is suspend the rules and go back to the General Government initiative and make the exception for "as provided elsewhere in the Constitution".

CHAIRMAN GRAYBILL: Mr. Rollins.

DELEGATE ROLLINS: Mr. Chairman, I'll make my remarks brief by quoting twice from Shakespeare. Once, I'm willing to go along with this amendment to make "assurance triply sure"—it's already doubly sure: in the Article on General Government and in Section 16 of the Legislative Article—and I'll close with Shakespeare by saying that I want to see this resolved and not spend all day "writing a sonnet to a mistress' eyebrow".

CHAIRMAN GRAYBILL: Mrs. Bates.

DELEGATE BATES: Mr. Chairman, fellow delegates. I concur with removing these 12 words, not only because of the possible interpretation by the courts later but the principles involved. Going home, I find the people were appalled at this measure and the possibility of involving and taking money from the highway by initiative of the people.

CHAIRMAN GRAYBILL: Mr. Harlow.

DELEGATE HARLOW: Mr. Chairman and fellow delegates. Will Delegate Rygg yield to a question?

DELEGATE RYGG: I'll yield.

DELEGATE HARLOW: Did not, that is, during your comments about these 12 words, make the comment that this initiative was for the purpose of spurring the Legislature and not for the actual appropriation of the money?

DELEGATE RYGG: Certainly that was our intent, but apparently it could be misconstrued with words. That was our intent; yes, sir.

DELEGATE HARLOW: Yeah. Thank you, Mr. Rygg. Well, then, as I am in support of deleting these words because, as I interpret the work that we have done so far in regard to this line—I realize I am not the interpretive mind like the legal minds—but there is nothing that would prohibit the people from an ordinary initiative of law to initiate a request to the Legislature encouraging them to make a decision to appropriate some of this money; so I do not feel that by taking out these six words—or nine words—that we are prohibiting the people from using the initiative process to encourage the Legislature to do things that the Legislature may be reticent in doing without a little encouragement. So I think this is a good thing to do, to eliminate all those things, and it has not taken away the intent that the Revenue Committee had in the beginning. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Is there further discussion?

Mr. Barnard.

DELEGATE BARNARD: Mr. President. I have an amendment here that might straighten the thing out. I haven't got it quite completely written up—

CHAIRMAN GRAYBILL: Well, now, Mr. Barnard, we've got a motion that's to reconsider and a motion to suspend the rules, all of which are limited strictly to striking 12 words. Now—

DELEGATE BARNARD: Just limited to—strictly to striking the 12 words.

CHAIRMAN GRAYBILL: —they're still going to be restricted to striking 12 words, your amendment?

DELEGATE BARNARD: No, it would be just to change them just slightly, so I'll—(Inaudible)

CHAIRMAN GRAYBILL: Yes, I understand, but that was the whole problem on the touchy nature of the motion to suspend. Now, I don't see how you can make an amendment to striking 12 words that's going to change it; but if you can figure one out, okay. But I think that the Chair is duty-bound now, unless we go back and move to suspend for a broader purpose—now, if you want to try that, that's you know—that's all right. I'm not objecting to that, but I'm saying that we've carefully limited the reason and purpose for which it's open, and I don't see how you can amend it at this stage of the game.

DELEGATE BARNARD: Mr. President, all I had in mind was not to change the amendment more than just to clarify it; so it would clear up the situation we're faced with.

CHAIRMAN GRAYBILL: Well, if you want to write it out and send it up, I'll look at it; but the Chair is going to rule that we're within this limited suspension purpose, and until you enlarge the suspension purpose, I'm going to be terribly strict about that. But you can finish it if you want to. Is there other discussion?

Mr. Habedank.

DELEGATE HABEDANK: Mr. President and fellow delegates. For the benefit of those who were not here during the argument on General Government, the initial attempt on the part of General Government to reconcile the conflict between these two articles was to do what Delegate Holland suggested. This was voted down by a very large majority because it was felt it would be improper to allow this type of thing to occur insofar as appropriation is concerned. The only way that I see the court could clarify the situation, if you were to leave this in, is to do what Delegate Harper contended, in opposition to what I suggested, was the question of whether this would be a 10-percent vote or a 5-percent vote; and if you clarify this thing by analogy, the court, to eliminate conflict, would have to hold that the only initiated measure that you could have would be a constitutional amendment. Once that is done, the people would not be appropriating money, but they would probably remove the entire subsection 2 or else remove the earmarking funds. By constitutional amendment, the people can eliminate the earmarking of funds, or if they desire, they can eliminate subsection 2 and eliminate the ability of the Legislature to change the appropriations. Therefore, I think—I again urge you to follow the recommendation of the Revenue and Finance Committee to eliminate this conflict by striking the last 12 words.

CHAIRMAN GRAYBILL: Mr. Rygg.

DELEGATE RYGG: May I close? I only want to say in closing that, originally, the committee felt they should not reopen this section and change it, but after we discussed it and found out there seemed to be no way of clarifying it, then the majority of the committee decided that this was the route to go. It isn't any attempt on the committee to change anything, except we honestly felt that there was no other way out of it, to keep the ambiguity out of the Constitution. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Very well. I take it we want a roll call vote on this matter. Very well, so many as shall be in favor of Mr. Rygg's proposed amendment to Section 6, sub. 2, to strike the last 12 words, which are "or by initiated measure approved by a majority of the qualified electors", which has the effect of striking that initiative measure out of subsection 2, vote Aye; and so many as are opposed, vote No. Has every delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Nay
Aronow	Nay
Artz	Nay
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Absent
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Absent
Cate	Aye
Champoux	Nay
Choate	Aye
Conover	Aye
Cross	Nay
Dahood	Aye
Davis	Excused
Delaney	Absent
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Absent
Foster	Nay
Furlong	Nay
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Nay
Jacobsen	Aye
James	Aye
Johnson	Aye

Joyce	Aye
Kamhoot	Aye
Kelleher	Nay
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Nay
Murray	Excused
Noble	Aye
Nutting	Excused
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Nay
Studer	Absent
Sullivan	Aye
Swanberg	Aye
Toole	Nay
Van Buskirk	Aye
Vermillion	Nay
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye

CLERK HANSON: Mr. Chairman, 79 delegates voting Aye, 13 voting No.

CHAIRMAN GRAYBILL: 79 having voted Aye and 13 having voted No, Section 6, sub. 2, is amended. Mr. Rygg, would you please move an amendment that when this committee does arise and report, after having had under consideration Section 6, sub. 2, of the Revenue and Finance Committee proposal, as amended, that the same be adopted.

DELEGATE RYGG: Yes, sir, I so move that.

CHAIRMAN GRAYBILL: Or same be recommended for adoption?

DELEGATE RYGG: As amended, right.

CHAIRMAN GRAYBILL: All in favor of Mr. Rygg's motion that we adopt this as amended, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: The Ayes have it, and so ordered.
Mr. Eskildsen.

DELEGATE ESKILDSEN: I move that the Committee of the Whole rise and report—and finally report.

CHAIRMAN GRAYBILL: The motion is that the committee arise and report finally on Judiciary and Revenue and Finance and refer them back to Style and Drafting. All in favor of the motion, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: So ordered.

PRESIDENT GRAYBILL: The Chair would like to announce that there is one other matter that some may wish to take up; and after we rise and finally report on this matter, the Chair will entertain a motion for a 15-minute recess. And would Mr. Aasheim, Mr. Joyce, Mr. Etchart, Mr. McDonough or Mr. Rygg, and Mr. Blaylock please meet in the Rules Committee room on recess. Will the clerk please read the committee report.

CLERK HANSON: "March 20, 1972. Mr. President. We, your Committee of the Whole, having had under consideration business on General Orders, recommend as follows: that the Committee rise and finally report on Judiciary and Revenue and Finance and refer them back to Style and Drafting. Signed: Graybill, Chairman." Mr. President.

PRESIDENT GRAYBILL: Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. President, I move we adopt the Committee of the Whole report and that Judiciary and Revenue and Finance proposals be placed in Style and Drafting.

PRESIDENT GRAYBILL: For inclusion in the final document. All in favor of that motion, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No. (No response)

PRESIDENT GRAYBILL: I take it no one objected to not reading the report in full. Very well, Mr. Eskildsen, let's take a 15-minute recess.

DELEGATE ESKILDSEN: I move we stand in recess until 5 minutes to 11:00 this day.

PRESIDENT GRAYBILL: The motion is to recess until 5 minutes to 11:00; all in favor, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No. (No response)

PRESIDENT GRAYBILL: So ordered.

(Brief recess)

PRESIDENT GRAYBILL: The Chair hesitates to do the next important business until we get some more people here, so I think we better send a page out in the hall and tell them to come to the meeting.

The Convention will come to order. Very well, members of our Convention, just before we recessed, we had finished the problem on Revenue and Finance and the problem on Judiciary. Another problem has now arisen, and the Chair intends to ask for a motion from Mr. Eskildsen to move the Executive proposal to Order of Business Number 10 so that we can consider a matter concerning the legislative post-auditor that has come up. Mr. Joyce will make the motion when we get there, and I'm sure you'll all understand it as soon as he explains it. But to get this matter under way, the Chair would like to ask Mr. Eskildsen if he has a motion to move Executive to Order of Business Number 10.

DELEGATE ESKILDSEN: Mr. President, without objection, may we be on Order of Business Number 7.

PRESIDENT GRAYBILL: Without objection, we'll be on Order of Business Number 7.

DELEGATE ESKILDSEN: Mr. President, I move that we take Executive proposal from Style and Drafting and refer it to Order of Business Number 10.

PRESIDENT GRAYBILL: The motion is to refer the Executive proposal, which is in Style and Drafting, to Order of Business Number 10, General Orders, for a Committee of the Whole discussion. All in favor of that motion, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

PRESIDENT GRAYBILL: So ordered. Mr. Joyce.

DELEGATE JOYCE: Mr. Chairman, I move to suspend the rules for the limited purpose only of modifying—

PRESIDENT GRAYBILL: Now, Mr. Joyce, wait a minute.
Mr. Eskildsen.

DELEGATE ESKILDSEN: Without objection, may we be on Order of Business Number 10?

PRESIDENT GRAYBILL: Without objection, we'll be on Order of Business Number 10.
Mr. Eskildsen.

DELEGATE ESKILDSEN: I move the Convention resolve itself into Committee of the Whole for the purpose of handling business under General Orders.

PRESIDENT GRAYBILL: Very well. The motion is to resolve this Convention into a Committee of the Whole. All in favor, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed? (No response)

PRESIDENT GRAYBILL: So ordered.

(Committee of the Whole)

CHAIRMAN GRAYBILL: Now, Mr. Joyce.

DELEGATE JOYCE: Mr. Chairman, I move that this committee suspend the rules for the limited purpose only of reconsidering Section 3, subsection 5, of the final report on the Executive Committee's Report Number 4.

CHAIRMAN GRAYBILL: Mr. Joyce, it's Section 4, subsection 5.

DELEGATE JOYCE: Section 4, subsection 5, pardon me.

CHAIRMAN GRAYBILL: Do you want to explain your limited purpose?

DELEGATE JOYCE: The limited purpose would be on line 26 of page 2. As adopted, the words now read: "The Legislature may appoint a legislative post-auditor who shall perform such post-auditing duties as may be provided by law." If the motion to reconsider is to suspend the rules and subsequently the motion to reconsider is passed, I would then move that we substitute, in lieu of those words, the following words, that you can write down if you wish: "The Legislature shall establish a legislative post-audit committee which shall perform such post-auditing duties as may be prescribed by law." This question arises at the request of the current Legislative Post-Audit Committee. We met during the recess with the current members of that committee; they pointed out to us that, as the legislative post-auditor is now established, it is established by the rules of the Legislature whereby the Speaker of the House and the President of the Senate appoint this Legislative Post-Audit Committee, which is bipartisan in nature—has exactly the same number of each political party—and that this particular committee then does, in fact, appoint the legislative post-auditor, and he reports to that committee. And that—As we have written it into the Constitution, we are providing that the Legislature shall appoint this legislative post-auditor; and their concern is, if the appointment of a legislative post-auditor is thrown into the Legislature, that it will get involved in the politics of the Houses, depending on which particular party may happen to control the same—that as the system is currently established, it is guaranteed to be bipartisan in nature, and they prefer the language which I have proposed, rather than the language that's in the Constitution as adopted at this time.

CHAIRMAN GRAYBILL: Mr. Joyce. Okay, I think you've fully explained it. The Chair would like to restate this language so everybody has it if they want it: "The Legislature shall establish a Legislative Post-Audit Committee which shall perform such post-auditing duties as may be provided by law". Mr. Joyce, I changed your word to "provided", since that's what Style and Drafting has done all along and I'm trying to avoid going back to Style and Drafting again. Now, the purpose, then, of the Joyce motion to suspend the rules is to suspend the rules to consider Section 4, sub. 5, of the Executive Article for the purpose of changing the language from letting the Legislature appoint a post-audit to letting the Legislature establish a Post-Audit Committee, which would then have the duties that they now have. Now, is there other discussion on the motion to suspend the rules?

Mr. Joyce.

DELEGATE JOYCE: Before you put that—the word is "supervise", rather than "perform"—I think because this committee does not do the post-auditing as such.

CHAIRMAN GRAYBILL: Right.

DELEGATE JOYCE: They supervise the post-auditor that they appoint.

CHAIRMAN GRAYBILL: "Which shall supervise such post-auditing duties as may be provided by law"; I think that is correct.

Mr. Aasheim.

DELEGATE AASHEIM: Mr. President, would you want in this motion the proposition that, if adopted, that this sentence be placed in the Legislative Article—I mean, the Style and Drafting Committee be authorized to insert this in the Legislative Article in the proper position; would you want that in the motion?

CHAIRMAN GRAYBILL: I've spoken to Mr. Schiltz; is he here? Mr. Schiltz, is there any reason you couldn't move it to Legislative, Style and Drafting?

DELEGATE SCHILTZ: There's no reason, Mr. President, except that the Style and Drafting Committee agreed yesterday unanimously that it wasn't germane at that time to the rest of the content of the Legislative Article. And, so we had agreed among ourselves to put it in a group of four or five general provisions, where I submit to you it might stand out better than if it were in the Legislative Article. We'll do whatever the committee wants, and we'd rather find it out now than have it moved the day after tomorrow.

CHAIRMAN GRAYBILL: Well, Mr. Aasheim.

DELEGATE AASHEIM: Would Mr. Schiltz yield to another question?

CHAIRMAN GRAYBILL: Mr. Schiltz?

DELEGATE SCHILTZ: (Inaudible)

DELEGATE AASHEIM: I would move, Mr. Schiltz, to have it in Section 10, sub. 4, which reads now: "The Legislature may establish a Legislative Council and other interim committees." Would it belong here? I'm open to your suggestions. What would you suggest at this time?

DELEGATE SCHILTZ: Well, I don't know the one you're looking at now, because I have something else before me, but 10, sub. 4, of the—I'd have to look at it. I think as amended, it's now more germane to the Legislative Article; and I think if somebody wanted to make that motion, it would be appropriate.

DELEGATE AASHEIM: Well, Mr. President—

CHAIRMAN GRAYBILL: Mr. Aasheim, I would—we haven't done this yet; and before we leave it, I would entertain a motion from you as to put it in the Legislative Article.

DELEGATE AASHEIM: (Inaudible)—time. Would it not be in order now?

CHAIRMAN GRAYBILL: I see; if we haven't mentioned it, you mean? You want to ask Mr. Joyce to say "and place the language in the Legislative Article"?

DELEGATE AASHEIM: Instruct the Style and Drafting Committee to insert it in Section 10, sub. 4, of the article.

CHAIRMAN GRAYBILL: Mr. Joyce.

DELEGATE JOYCE: Mr. Chairman. May I add to my—

CHAIRMAN GRAYBILL: (Inaudible)

DELEGATE JOYCE: —motion to suspend the rules for that limited purpose, the additional words that I would further move later to have the language, if adopted, incorporated into the Legislative Article by the Style and Drafting Committee?

CHAIRMAN GRAYBILL: Very well. Now, we're ready to debate the motion to suspend the rules, and Mr. Scanlin has been up.

DELEGATE SCANLIN: Mr. Chairman, is a substitute motion in order to suspend the rules in order to delete this sentence?

CHAIRMAN GRAYBILL: Yes, I suppose it's in order.

DELEGATE SCANLIN: My reason being that, if it's already being carried out in the statutes, what are we getting so confused about?

CHAIRMAN GRAYBILL: You're making—are you making such a motion?

DELEGATE SCANLIN: I so move.

CHAIRMAN GRAYBILL: You make a motion to suspend the rules to reconsider Section 4, sub. 5, of the Executive Article to delete the sentence concerning the legislative post-auditor. All right, Mr. Scanlin has made a substitute motion to move to suspend the rules for the purpose of reconsidering Section 4, sub. 5, of the Executive Article, to delete the references therein to the legislative post-auditor.

Mr. Joyce.

DELEGATE JOYCE: Mr. Chairman. I rise in opposition to the motion of Delegate Scanlin to reconsider for that purpose, and I do so because I feel honor-bound to call to the attention of the body that this particular section came in as the result of a floor debate—that was conducted between myself, as the chairman of the Executive Committee, and Mr. Felt, the member of my committee but who had offered this amendment. If the delegates will recall, this entire debate came about over the—amending the Executive Article with reference to the function of the state auditor. And after some debate, it was finally narrowed down to the language which currently appears in the Executive Article; and the rationale as to why we did that was to make it clear, constitutionally, that the Legislature could itself establish a post-auditing system and that it would not be in conflict with the state auditor as provided in the Executive Department. And that was the reason why this Convention took the action it did; and to now delete this matter, when Delegate Felt isn't here to defend his position, which, of course, is not necessarily relevent—but at any rate, if—I was trying to recall to the convention the action that we did take and the reason that we did do such a thing at the time that this particular subject matter was covered, when the Executive Article was under debate in the Committee of the Whole.

CHAIRMAN GRAYBILL: Mr. Blaylock.

DELEGATE BLAYLOCK: Mr. President, I likewise resist the motion to delete this and support the motion of Mr. Joyce to suspend the rules. I was asked by Chairman Schiltz of the Style and Drafting Committee to meet with the Legislative Council members who have been running—or supervising the post-auditing for the state, and one of the reasons, I think that you will remember, that we wanted to put this office into our Constitution was because it had worked so extremely well for the State of Montana. And these men, who are—have been serving in our state Legislature, are concerned about the present language, that we have adopted because they feel that the language we have that the Legislature could appoint this legislative post-auditor and thus throw the whole thing back into politics, which they have so scrupulously tried to keep out of politics and which I think they have. This is why we like this post-auditor so well—is because it has been kept out of politics, and they're very careful about when they put out these reports so that they don't come out at election time to try to hurt somebody running for office or anything like this; and it's done because this committee is balanced between Democrats and Republicans; and they want to keep it that way. They want to keep the authority within the Legislative Post-Audit Committee. And so I definitely support Mr. Joyce, and I hope the committee will go along, because I think these men have worked extremely well for the State of Montana.

CHAIRMAN GRAYBILL: Mrs. Bates.

DELEGATE BATES: Mr. Chairman, fellow delegates. First, Mr. Chairman, I'd like a point of information. Isn't it possible that part of this section could be moved to the Legislative Article by Style and Drafting without reopening this article?

CHAIRMAN GRAYBILL: It could be moved to Style and Drafting and, in fact, it has been moved to General Government by them, but that doesn't reach the substantive problem that the Legislative Council people want reached.

DELEGATE BATES: Well, Mr. Chairman, could I speak on this?

CHAIRMAN GRAYBILL: You may speak on the motion to suspend the rules.

DELEGATE BATES: I oppose suspending, for the simple reason that if Style and Drafting can remove this last sentence from this section that says: "The Legislature may appoint a legislative post-auditor who shall perform such post-auditing duties as may be provided by law." It's something they can do now. In looking over the minutes of our Legislative Committee meeting, I find that it was the sense of the committee that the Legislative Council be left out of the Constitutional Article—wait a minute,—this—here it is—"it was the sense of the committee that the legislative audit was a good idea and that it should be left to statutory law." And it was our decision that this legislative post-audit was appointed by the Legislature for their protection and for their use.

CHAIRMAN GRAYBILL: All right. Mrs. Bates, I think you're now substantively arguing whether or not we should change this. I might point out, for your information, that that's precisely—Mr. Scanlin is trying to do precisely what you want to do—take it out of the Constitution. Now—

DELEGATE BATES: Not to take it out of the Constitution, but to move it into the Legislative Article.

CHAIRMAN GRAYBILL: Well, all right. Now, apparently you don't understand the situation. The situation is that Mr. Joyce moved a motion to suspend the rules, Section 4, sub. 5, to propose changing the substantive language so that we did not give the Legislature the power to appoint a post-auditor; rather, we gave them the power to establish a post-audit committee which would supervise the post-auditor. And the reason is to keep it out of politics. Mr. Scanlin, on the other hand, has made a substitute motion to suspend the rules for the purpose of striking from subsection 5, Section 4, of the Executive Article, all references to the legislative post-auditor. Now that's what Mr. Scanlin's motion is at the present time; that's the motion we're debating—whether or not to allow him to suspend the rules for that purpose.

Mrs. Bates.

DELEGATE BATES: I realize this, and—

CHAIRMAN GRAYBILL: Okay.

DELEGATE BATES: —but I oppose the motion from Joyce for this reason, and I feel that Style and Drafting can take care of this matter. Thank you

CHAIRMAN GRAYBILL: All right. Well, that's—you're now arguing the issue, and I'm trying to avoid that. Is there any other discussion of Mr. Scanlin's motion to suspend the rules to delete the legislative post-auditor entirely?
Mrs. Robinson.

DELEGATE ROBINSON: Mr. Chairman. I rise in support of Mr. Scanlin's motion, not so much as I'm in opposition to Mr. Joyce's—because in the event that this does fail, I would support that because I feel we have made a mistake in dealing with that audit. But, as Mrs. Bates indicated, in our Legislative Committee we felt that this should be left out of the Constitution. This is one of the institutions of the State of Montana that is working; it is working very well. We could see no reason for writing it into the Constitution. We talked to the people in the Legislative Post-audit Commission downstairs, and they agreed that it shouldn't be written into the Constitution, and that's why the Legislative Committee took that position. I think that it's very clearly dealt with in the statutes.

CHAIRMAN GRAYBILL: All right, now, I don't mind you talking about the motion, but I don't want you to argue the substantive issue.
Mr. Roeder.

DELEGATE ROEDER: At the risk of suffering the slings and arrows of my seatmate, I rise in opposition to Mr. Scanlin's motion. And I think that there's some confusion here, in this respect: I think one of the reasons we mentioned legislative post audit and other interim committees was to make it clear that we were trying to surmount the effect of a series of Supreme Court decisions in the 1950's that questioned the constitutionality of interim committees; and if we get to the debate stage, I think Mr. Berg ought to clarify that.

CHAIRMAN GRAYBILL: Is there other discussion of Mr. Scanlin's motion to suspend the rules?
Mr. Aasheim.

DELEGATE AASHEIM: I resist the motion by Mr. Scanlin and support the one by Mr. Joyce.

CHAIRMAN GRAYBILL: Mr. Martin.

DELEGATE MARTIN: I hesitate to get up in regard to a suspension of the rules, but in this case, I think if we were to delete this section I think it would be one of the most serious things that we could do. We would remove the watchdog that we need so badly.

CHAIRMAN GRAYBILL: Mr. Scanlin, do you want to close on your idea of suspending the rules?

DELEGATE SCANLIN: Thank you, Mr. Chairman. I wish to close simply by saying: if the law is working well now, and the last few words of line 25 says "as are prescribed by law", I see no reason to tamper with it, and consequently, I support my motion.

CHAIRMAN GRAYBILL: Is there a roll call vote called for?

UNIDENTIFIED DELEGATES: Roll call.

CHAIRMAN GRAYBILL: So many as shall be in favor of Mr. Scanlin's motion to suspend the rules for the purpose of taking out of Section 4, subsection 5, any reference to the legislative post-auditor—so many as shall be in favor of that, vote Aye; so many as shall be opposed, vote No. Has every delegate voted?
(No response)

CHAIRMAN GRAYBILL: Now, I'm sorry, Mr. Aasheim—I mean Mr. Schiltz and Mr. Aronow, you've got to sit in your own seats. The voting machine is keyed to your seats, and you've now voted for each other and that's illegal; and I don't want you both going to jail. If there had been a chance to send one, I might have considered it, but—(Laughter) I'm not going to tell you which one. (Laughter) All right, now, has every delegate voted the way he wants to vote, and does any delegate wish to change his vote?
(No response)

CHAIRMAN GRAYBILL: Very well, close the ballot. The problem is you get the machine all fouled up, Cedor.

Aasheim	Nay
Anderson, J.	Nay
Anderson, O.	Nay
Arbanas	Nay
Arness	Absent
Aronow	Nay

Artz	Nay
Ask	Nay
Babcock	Nay
Barnard	Nay
Bates	Nay
Belcher	Nay
Berg	Nay
Berthelson	Nay
Blaylock	Nay
Blend	Nay
Bowman	Nay
Brazier	Nay
Brown	Nay
Bugbee	Nay
Burkhardt	Nay
Cain	Nay
Campbell	Nay
Cate	Nay
Champoux	Aye
Choate	Nay
Conover	Aye
Cross	Aye
Dahood	Nay
Davis	Excused
Delaney	Absent
Driscoll	Nay
Drum	Nay
Eck	Nay
Erdmann	Nay
Eskildsen	Nay
Etchart	Nay
Felt	Absent
Foster	Absent
Furlong	Nay
Garlington	Nay
Graybill	Nay
Gysler	Nay
Habedank	Nay
Hanson, R.S.	Nay
Hanson, R.	Nay
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Nay
Holland	Nay
Jacobsen	Nay
James	Nay
Johnson	Nay
Joyce	Nay
Kamhoot	Nay
Kelleher	Nay
Leuthold	Nay
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Nay
Martin	Nay
McCarvel	Nay
McDonough	Nay
McKeon	Nay
McNeil	Aye
Melvin	Nay
Monroe	Aye
Murray	Excused
Noble	Nay
Nutting	Excused
Payne	Nay
Pemberton	Nay
Rebal	Nay
Reichert	Nay
Robinson	Aye
Roeder	Nay
Rollins	Aye
Romney	Nay
Rygg	Nay
Scanlin	Aye
Schiltz	Nay
Siderius	Nay
Simon	Nay
Skari	Nay
Sparks	Nay
Speer	Nay
Studer	Absent
Sullivan	Nay
Swanberg	Nay
Toole	Nay
Van Buskirk	Nay
Vermillion	Nay
Wagner	Nay
Ward	Nay
Warden	Nay
Wilson	Nay
Woodmansey	Nay

CLERK HANSON: Mr. Chairman, 15 delegates voting Aye, 77 voting No.

CHAIRMAN GRAYBILL: 77 voting No and 15, Aye, Mr. Scanlin's motion has failed. Now we're back on Mr. Joyce's motion, which is to suspend the rules so that we can consider the Executive Article, Section 4, sub. 5, for the purpose of changing the legislative post-auditor language and giving—and putting in language to make it appoint—establish a committee which will run the post-audit. Now, is there other discussion on that motion to suspend the rules?

Mrs. Babcock.

DELEGATE BABCOCK: Mr. Chairman,

is the whole section open? If it is, it includes the Superintendent of Public Instruction, the Treasurer, the Auditor, and the whole bit; is that all open?

CHAIRMAN GRAYBILL: Now, Mrs. Babcock, I've said that the—subsection 5 is open for the purpose of changing the legislative post-auditor part only. If you're looking at your final, you're right; those other things are in there. But in your Style and Drafting, Style and Drafting put a subsection 6 into 5, and the only part that's open is the last sentence. Now, if you want to enlarge it, you can make another motion, but—

DELEGATE BABCOCK: Mr. Chairman, by all means, I don't want to enlarge it; and I rise in opposition to it. I think once we've voted on these for final vote that they should stay voted on for final vote.

CHAIRMAN GRAYBILL: All right. The only thing that's open, Mrs. Babcock, is the last sentence, which is the sentence concerning the post auditor. Is there other discussion?
Mr. Furlong.

DELEGATE FURLONG: Mr. Chairman. It seems to me that what we're really trying to do here is constitutionalize a procedure, and I would stand opposed to reopening it unless I had some more clear explanation of the purpose.

CHAIRMAN GRAYBILL: You may certainly find out; I don't want you to be misled here. You may inquire—or Mr. Joyce or Mr. Blaylock may reexplain to you the purpose. Mr. Joyce, Mr. Furlong would like the purpose reexplained.

DELEGATE JOYCE: Mr. Chairman. The purpose of my motion to suspend the rules would be for the limited purpose only of deleting, on page 2 line 25, beginning with the word "the", of Executive Report Number 4, by deleting the words "The Legislature may appoint a legislative post-auditor who shall perform such post-auditing duties as may be provided by law". Then substitute in lieu thereof the following language: "The Legislature shall establish a Legislative Post-audit Committee which shall supervise such post-auditing duties as may be provided by law."

CHAIRMAN GRAYBILL: And, Mr. Furlong—

DELEGATE FURLONG: And further, to instruct the Style and Drafting Committee to insert the same—the new language, if adopted, in an appropriate section of the Legislative Article.

CHAIRMAN GRAYBILL: Is that sufficient, Mr. Furlong? Or do you want to know why they want to do that?

DELEGATE FURLONG: Mr. Chairman, it's sufficient. I still maintain that what we're doing is constitutionally establishing a procedure. I don't know why it's really necessary.

CHAIRMAN GRAYBILL: Well, I certainly want everybody to understand why, and I understand why. And you may vote either way, but the reason is that we have given the Legislature the power to appoint the post-auditor. The present Legislative Post-audit Committee people feel that we may have thus placed the post-auditor in a political position where a majority in the Legislature would appoint him politically. The present practice is to have a Post-audit Committee which is not appointed by the Legislature but is appointed by the speaker of one house and somebody else. But, in other words, it's a procedure by which a committee is appointed and the committee chooses the post-auditor. They feel that this insulates the post-auditor from the direct control of the entire legislative body and thus takes it out of politics. Now, I don't know whether it will or not, but at least that's what they think—that it would have a better chance of doing than the way it is here. The purpose of the amendment is to address ourselves to that problem, if we do it. Now, whether it's a good idea or not, I'm not prepared to say.
Mrs. Reichert.

DELEGATE REICHERT: Mr. Chairman. Would Mr. Joyce please yield to a question?

CHAIRMAN GRAYBILL: Mr. Joyce?

DELEGATE JOYCE: I yield.

DELEGATE REICHERT: Delegate Joyce, when our Legislative Committee prepared its final report, as Delegate Aasheim stated, we have mentioned the Legislature may establish a Legislative Council and other interim committees. I had worked on this legislative post-audit; I was the one who had gone down to see our auditor. And in reporting back, I had discussed the issue with Mr. Felt; and he thought this "other interim committees" would permit exactly what the statement you have just suggested would do. Now, I want to ask you how this proposal now would differ from the statement "The Legislature may establish other interim committees".

DELEGATE JOYCE: Well, in answer to that, I suppose it would differ from it in that it would be more specific than the section that you refer to. And to amplify—as I say, the reason that this was inserted into the Executive Article after extended debate, if you recall, in which Mr. Felt and I were on opposite sides of the debate, and finally it got stripped down to this language on my amendment from further language that he had proposed, and which was ultimately adopted by the Committee of the Whole and the convention itself on final reading of the Executive Article.

CHAIRMAN GRAYBILL: Mr.—

DELEGATE JOYCE: It could do the same thing; maybe it would and maybe it wouldn't. This is more specific.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman. If I may address myself to Mrs. Reichert's question, I think the idea was that the legislative post-audit is an excellent institution and that it—we should make sure somehow that it's retained and, in order to do that, retain it by constitutional provision rather than let the Legislature willy-nilly abandon it at some time.

CHAIRMAN GRAYBILL: Mr. Aasheim.

DELEGATE AASHEIM: Just one comment in addition to what Mr. Schiltz just said. There has been a question—the Supreme Court has raised this—whether or not the Legislature has the authority to set up these interim committees. And that is why Mr. Felt made this suggestion, and that is why we have included in the committee—in this Legislative Article. And as Mr. Schiltz said, this makes it very plain and very specific that they can do this.

CHAIRMAN GRAYBILL: Mr. Skari.

DELEGATE SKARI: Mr. President, would Delegate Joyce yield to a question, please?

CHAIRMAN GRAYBILL: Mr. Joyce?

DELEGATE JOYCE: Mr. Chairman, I yield.

DELEGATE SKARI: Mr. Joyce, I think I understand now. The idea of this language is to keep the legislative post-auditor out of politics by selecting this person by a smaller committee than the entire legislative body. Still, is there any guarantee here that the Legislative Post-audit Committee will be balanced politically? I understand it has in the past.

DELEGATE JOYCE: Well, in answer to the question, I suppose I'd have to say that there is no guarantee as such, other than that the current members of the committee feel that, as the law is currently established, that it is out of politics, and this would be at least a strong directive to continue the system that they've established to keep it out of politics.

DELEGATE SKARI: Thank you.

CHAIRMAN GRAYBILL: Mr. Mahoney.

DELEGATE MAHONEY: Mr. Chairman. I think this is good amendment to put it in here, and I'm sorry to the convention I didn't notice this before, but if you went out here and let the Legislature—and they had just the appointing—or selecting a legislative auditor. At least we're getting it back under a committee; we're getting it back under the Legislature where it should belong. And I think this is there, and we don't want to come out here and create another branch of government, which we—might happen if we had this individual this way. I sure hope that this amendment will prevail.

CHAIRMAN GRAYBILL: All right. Now, the amendment is on—or the motion is on a motion to suspend the rules. And I think we now have gotten everybody sufficiently educated so they at least know what they're voting about. So, I'm not going to cut off debate if you want to debate the motion, but I do think you should stick to the subject of suspending the rules if you want to discuss it now. Is there any further discussion? Mrs. Bates.

DELEGATE BATES: Mr. Chairman, I would like to have Delegate Mahoney answer a question.

CHAIRMAN GRAYBILL: Mr. Mahoney, will you yield?

DELEGATE MAHONEY: I'll try.

DELEGATE BATES: Under the Legislative Article, interim committees are one of the things that's permitted. Why couldn't this be done—

CHAIRMAN GRAYBILL: Now, Mrs. Bates

DELEGATE BATES: Am I—

CHAIRMAN GRAYBILL: All right, ask your question; but then, before you answer, Mr. Mahoney, the Chair is going to rule.

DELEGATE BATES: Why couldn't this be done under the present—the way it is now?

CHAIRMAN GRAYBILL: All right. That's a substantive question that you can debate if we ever suspend the rules and debate this matter, Mrs. Bates; so I'll rule it out of order. Is there any other question about the motion to suspend the rules?

(No response)

CHAIRMAN GRAYBILL: Do you want a roll call vote? The Chair wants a roll call vote; does he have some seconds?

(Affirmative response)

CHAIRMAN GRAYBILL: Good. All in favor of suspending the rules so that—on Mr. Joyce's motion so that we can go into Executive Article, Section 1, sub. 5, and change the nature of the legislative post-auditor to a post-audit committee, please vote Aye; and so many as are against that, vote No. Have all the delegates voted?

(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, we'll cast the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Absent
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Nay
Barnard	Aye
Bates	Nay
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Nay
Cate	Absent
Champoux	Nay
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Excused
Delaney	Absent
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Absent
Foster	Nay
Furlong	Nay
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Absent
McNeil	Aye
Melvin	Aye
Monroe	Nay
Murray	Excused

Noble	Aye
Nutting	Excused
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Nay
Romney	Aye
Rygg	Aye
Scanlin	Nay
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Absent
Sullivan	Aye
Swanberg	Aye
Toole	Absent
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Nay
Woodmansey	Aye

CLERK HANSON: Mr. Chairman, 80 delegates voting Aye, 10 voting No.

CHAIRMAN GRAYBILL: 80 voting Aye, 10 voting No, the motion carries.

Mr. Joyce, do you want to make a motion to reconsider for that specific purpose?

DELEGATE JOYCE: Mr. Chairman. Having voted on the prevailing side, I move that this committee reconsider its action in its previous consideration of Section 4, subsection 5, the last sentence thereof, which reads: "The Legislature may appoint a legislative post-auditor who shall perform such post-auditing duties as may be prescribed by law." And my reference is to the Order of Business Number 5, Final Consideration, Style and Drafting Executive Article Number IV.

CHAIRMAN GRAYBILL: All in favor of the motion to reconsider, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No. (No response)

CHAIRMAN GRAYBILL: The Ayes have it, and it's adopted.

Now, Mr. Joyce, do you want to state your motion?

DELEGATE JOYCE: Mr. Chairman, I move that when this committee does arise and report, that it recommend that the last sentence of Section 4, subsection 5, of the Executive Report Number 4 from Style and Drafting be amended to delete the following words: "The Legislature may appoint a legislative post-auditor who shall perform such post-auditing duties as may be provided by law." And insert in lieu thereof the following language: "The Legislature shall establish a legislative Post-audit Committee which shall supervise such post-auditing duties as may be provided by law."

Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Joyce.

DELEGATE JOYCE: I presume that I've already indicated the purpose of the proposed amendment, and I don't see any reason to elaborate any further on it.

CHAIRMAN GRAYBILL: Mrs. Bates, do you want to ask a question now?

DELEGATE BATES: Yes, Mr. Chairman. Mr. Mahoney, under the present Constitution—or the article as we now have it, with interim committees—why couldn't this be done without this wording?

CHAIRMAN GRAYBILL: Mr. Mahoney?

DELEGATE MAHONEY: I think it could if you would—without this wording, except I just now—first this body tried to delete that part under the Scanlin motion, and it was defeated. And so I would hesitate to let us get out of here without more—after we've debated, I think we should go ahead with this proposition now and leave it this way.

CHAIRMAN GRAYBILL: Mrs. Bates.

DELEGATE BATES: In our committee we also discussed this locking in the Constitution a legislative post-audit, for the simple reason that it's a product of the Legislature that would be responsible to the Legislature. If they fail to use it in its proper perspective, it would be useless, and they would have this opportunity to do this anyway. And the way this reads, "the Legislature shall establish , and they would have to regardless whether they used it or not. And so I oppose this.

CHAIRMAN GRAYBILL: Mr. Burkhardt.

DELEGATE BURKHARDT: Mr. Chairman, I wonder if Mr. Joyce would yield to a question.

CHAIRMAN GRAYBILL: Mr. Joyce?

DELEGATE JOYCE: Mr. Chairman, I yield.

DELEGATE BURKHARDT: Mr. Joyce, I'm wondering if, as a body, we wish to name a committee, or if you would react to whether we could simply say "The Legislature shall provide for post auditing procedures." Could you react to that one?

DELEGATE JOYCE: Well, I could in that the people who asked us to make this reconsideration wanted to spell out that it should be done in the way that it is currently being done.

DELEGATE BURKHARDT: It seems to me, Mr. Chairman—I'm not terribly versed in this area, but in constitutional matters, if you simply say "the Legislature shall provide for post-auditing procedures", then they're definitely provided with that. And since we're not saying in the article that the committee must be balanced politically, we'd be accomplishing the same thing. I won't, at this moment, amend the motion, but I would simply put it out there for people to think about. Thank you.

CHAIRMAN GRAYBILL: Mrs. Warden.

DELEGATE WARDEN: Mr. President. I would just like to stand in support of Mr. Joyce's motion. I think this is one of the most important things that we can do. I think that the spelling out the fact that there shall be a legislative post-audit and that it shall be done in the manner as prescribed here is without a doubt the simplest; it's a working situation. I've checked with a number of people, and in the many-year distant future, I can't see that this would necessarily have to be changed. I think it's something that is working; it's a system that is set up; it's under—someone has said—under statute. Well, so it is; but I think this is an important enough item to be considered in the Constitution; and I would strongly support Mr. Joyce's motion.

CHAIRMAN GRAYBILL: Mr. Jacobsen.

DELEGATE JACOBSEN: Mr. President and fellow delegates. I, too, support Mr. Joyce's motion. I think the legislative auditor is one of the finest things that our Legislature in the past few years has put into effect, and we should have this office and keep it out of politics if we can. Thank you.

CHAIRMAN GRAYBILL: Mr. Harper.

DELEGATE HARPER: Mr. Chairman. I join with this. We voted a moment ago not to delete it, so the only question now is how to word it. I think Mr. Joyce's committee proposal is plain and will do the job. I rise to ask this question: How does Mr. Aasheim's suggestion tie in here, or should it be tied in right here? Or do we need to instruct the Style and Drafting Committee to shift this to Article X, Section 4, of the Legislative Article?

CHAIRMAN GRAYBILL: Well the rules are, Mr. Harper, if that's directed to me—

DELEGATE HARPER: Yes.

CHAIRMAN GRAYBILL: The rules are suspended for a broad enough purpose that if this passes, the Chair will entertain a motion that the Style and Drafting Committee put it in the Legislative Article.

DELEGATE HARPER: Thank you. I'm not a betting man, as you are aware, but I'll bet this will pass if we'll all let ourselves vote on it right now.

CHAIRMAN GRAYBILL: Well, not yet. Mr. Hanson.

DELEGATE ROD HANSON: Mr. President. I hesitate to even ask a question, George, now. I would like to ask Delegate Joyce a question, if he'd yield.

CHAIRMAN GRAYBILL: Mr. Joyce?

DELEGATE JOYCE: I yield.

DELEGATE ROD HANSON: Tom, was there strong feelings in the committee about the use of the word "shall" instead of "may"?

DELEGATE JOYCE: Yes, yes.

DELEGATE ROD HANSON: Okay, I support the amendment as suggested by Delegate Joyce, then.

CHAIRMAN GRAYBILL: Mrs. Babcock.

DELEGATE BABCOCK: Mr. Chairman. I'd like to offer a substitute motion that would read: "The Legislature shall direct the state auditor to perform a post-audit as provided by law." And I'll be like Mr. Harper, I'll bet that this'll fail; and I'm sure that Mr. Roeder will enjoy stomping back on me.

CHAIRMAN GRAYBILL: Now, wait a minute, Mrs. Babcock. Before you've got anything to bet on, you've got to go a little slower. "The Legislature shall—"

DELEGATE BABCOCK: "The Legislature shall direct the state auditor to perform a post-audit as provided by law." I believe in the committee that we intended—

CHAIRMAN GRAYBILL: Wait a minute, Mrs. Babcock. "—shall direct the state auditor to perform—"

DELEGATE BABCOCK: Don't you take shorthand, Mr. Graybill?

CHAIRMAN GRAYBILL: No, I don't. "—to perform" what?

DELEGATE BABCOCK: "—to perform a post-audit as provided by law".

CHAIRMAN GRAYBILL: "—audit as provided by law."

DELEGATE BABCOCK: As I recall—May I speak?

CHAIRMAN GRAYBILL: Mrs. Babcock, now wait a minute. I'm going to let you have the floor. "—provided by law". Now, I have to state it so the body understands what we're doing. Members of the committee, we now have Mrs. Babcock making a substitute motion to Mr. Joyce's motion, the subject of—the terms of which are that, in place of what he suggested, we put into the Constitution this sentence: "The Legislature shall direct the state auditor to perform a post-audit as provided by law."

Now, Mrs. Babcock.

DELEGATE BABCOCK: Mr. Chairman. I believe, in having the auditor perform this audit, that this will definitely take it out of politics, because he's an elected official. And I believe that in our committee this was the original intent, to strengthen the auditor's office. And I'm almost sure that this won't fail, but I want to have it on the record—(Inaudible)

CHAIRMAN GRAYBILL: Mr. Martin.

DELEGATE MARTIN: Mr. Chairman, I want to express my thanks to Mrs. Babcock for putting the thing in its proper focus. We had an extensive debate on that issue, which was roundly defeated 62 to 31. I hope that Delegate Babcock's motion doesn't prevail and that Delegate Joyce's does.

CHAIRMAN GRAYBILL: Mr. Joyce.

DELEGATE JOYCE: Just a point of order that Mrs. Babcock's motion is out of order in that the rules were not opened for that purpose but were opened for the specific purpose of offering the amendment which I suggested.

CHAIRMAN GRAYBILL: I think you are absolutely right. Mrs. Babcock, your motion is out of order, and I shouldn't have—but I got carried away there, Mrs. Babcock. Mrs. Babcock, if Mr. Joyce's motion doesn't prevail or even it it does, afterwards I'll let you make a motion to suspend the rules for the purpose of this if you want to; but I've already limited the purpose for which we can do this, and so I can't let you make that kind of an amendment. I can let you make a stylistic amendment or something of that nature, but I can't let you make one that changes the substance of what we suspended the rules for.

DELEGATE BABCOCK: Are out of order motions recorded in the journal?

CHAIRMAN GRAYBILL: I suppose they're in the transcript.

DELEGATE BABCOCK: All right, thank you.

CHAIRMAN GRAYBILL: My ruling will now be that Mrs. Babcock's motion is out of order. Thank you, Mr. Joyce, for catching me. All right, is there further discussion of Mr. Joyce's motion, which is to delete the last sentence of Section 4, sub. 5, of the Executive Article and put in: "The Legislature shall establish a Legislative Post-audit Committee which shall supervise such post-auditing duties as may be prescribed—as may be provided by law."

Very well. Mrs. Bates.

DELEGATE BATES: Mr. Chairman. I would like to make a substitute motion here and say: "The Legislature may provide for the procedure for a legislative post-auditor period".

CHAIRMAN GRAYBILL: Your motion is out of order for the same reason as Mrs. Babcock's is. If you—and after we've done this, if you want to make another motion to suspend the rules and go through those steps, I'll be glad to let you; but I can't let you take advantage of the other people's going through the motion—when we voted on the—the point is this: when we voted on the motion to suspend the rules, everybody that voted at that time understood it was for a specific purpose and they knew the language. Now I can't let you make another one without going back and starting over again. Is there further discussion of Mr. Joyce's motion to substitute his language for the language that's presently in there?

(No response)

CHAIRMAN GRAYBILL: Is there a roll call that's been called for? So many as are in favor of Mr. Joyce's motion to substitute his language about the Legislative Audit Committee for that that's in there, vote Aye; and so many as are opposed, vote No. Have all the delegates voted?

(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, close the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Nay
Barnard	Aye
Bates	Nay
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Nay
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Excused
Delaney	Absent
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Absent
Foster	Nay
Furlong	Nay
Garlington	Aye
Graybill	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Absent
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Nay
Joyce	Aye
Kamhoot	Nay
Kelleher	Absent
Leuthold	Aye
Loendorf	Aye
Lorello	Absent
Mahoney	Absent
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Excused
Noble	Aye
Nutting	Excused
Payne	Aye
Pemberton	Aye
Rebal	Absent

Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Nay
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Absent
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Nay
Woodmansey	Aye

CHAIRMAN GRAYBILL: Mr. Clerk.

CLERK HANSON: Mr. Chairman, 79 delegates voting Aye, 9 voting No.

CHAIRMAN GRAYBILL: 79 having voted Aye and 9 voting No, Mr. Joyce's motion is adopted.

Mr. Aasheim, you may make a motion as to where to put it.

DELEGATE AASHEIM: I move Mr. Chairman, that this sentence from Section 4, subsection 5, lines 26 and 27, be directed to Style and Drafting to be incorporated into Section 10 of the Legislative Article, both unicameral and bicameral sections.

CHAIRMAN GRAYBILL: Very well, Mr. Aasheim has made a motion to put this new language into the Legislative Article—Section 10 of the Legislative Article, unicameral and bicameral. Is there any discussion?

Mrs. Bates.

DELEGATE BATES: Mr. Chairman. I think, too, this is where it belongs, and I go along with Mr. Aasheim; but is it possible to make an amendment on this sentence—or this section that will be moved?

CHAIRMAN GRAYBILL: Is it a stylistic or is it a substantive change?

DELEGATE BATES: It would be more or less style, I think; maybe substance.

CHAIRMAN GRAYBILL: Well, if you're going to change "shall" to "may", it's not style.

DELEGATE BATES: Well, I'll read it, and then you tell me.

CHAIRMAN GRAYBILL: Okay.

DELEGATE BATES: "The Legislature may provide for the procedure for a legislative post-audit period".

CHAIRMAN GRAYBILL: No, as soon as you say "may", it's "no". The point is, ladies and gentlemen, that this body, when Mr. Felt was here originally, put this principle of legislative post-audit into the Constitution. Now, this committee decided, in the motion that Mr. Joyce has made—carefully did not take it out. But when you say "may", then it's up to the Legislature whether it's in or out. Now, I'm going to come back to you, and you can make a motion to suspend the rules and change that, but you can't do it under Mr. Joyce's motion because it's too limited. And that would, you know—would make a major change, if the Legislature could do away with this if it wanted to. What we've said now is the Legislature must have some kind of a legislative post-audit. All right, is there other discussion of Mr. Aasheim's motion about putting it in the Legislative Article, Section 10?

Mr. Foster.

DELEGATE FOSTER: Mr. Chairman. It's just a point of order in that the original language was "may", and since we had to consider the original language as well as the proposed change, I don't see that the wording "may" is out of order.

CHAIRMAN GRAYBILL: Mr. Foster, the original language in the article is "may"; the original language in the proposal of Mr. Joyce is "shall". Now the Chair is going to rule that the "shall" prescribes it here; but I am going to come back, and we are going to see if Mrs. Bates or Mrs. Babcock or yourself care to change that. I'll be happy to do it, but I can't let the body vote thinking that it's "shall" and then change it to "may" afterwards. That's my point. If you want to challenge me, go ahead.

DELEGATE FOSTER: No, I won't challenge you I'll just say that since "may" was already in there, I think that we had to consider "may".

CHAIRMAN GRAYBILL: Well, it isn't in there now, Mr. Foster. All right, the issue then, is whether or not to put this new language in Section 10 of the Legislative Article. All in favor of moving it to Section 10 of the Legislative Article, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

CHAIRMAN GRAYBILL: That's adopted. Now, while we have this matter before us—

Mr. Joyce.

DELEGATE JOYCE: Mr. Chairman, I was just going to move that when this committee does arise and report, after having had under reconsideration Executive Article Number IV, Section 4, subsection 5, that it recommend the same be adopted as amended.

CHAIRMAN GRAYBILL: Just let the Chair think a minute here, now. I think the Chair is going to rule you out of order for the moment, Mr. Joyce. We now have this subsection 4, sub. 5, before the committee, and before we close it up, so that we're not doing vain things, I want to offer an opportunity to others who might want to move to suspend the rules for a different purpose in conjunction with that section.

Mrs. Babcock, do you wish to so move?

DELEGATE BABCOCK: No, Mr. Chairman, but I would like to ask a question. Are all of these changes again placed on Order of Business Number 5 so that we can revote on them?

CHAIRMAN GRAYBILL: They are going to go directly to Order of Business Number 5, right.

DELEGATE BABCOCK: So we can change our vote then if we want to?

CHAIRMAN GRAYBILL: Yes. All right, Mrs. Babcock, you don't want to open it.

Mrs. Bates, do you want to make a motion to suspend the rules?

DELEGATE BATES: Yes, I would do so.

CHAIRMAN GRAYBILL: For what purpose?

DELEGATE BATES: To change the language for just one sentence. "The Legislature may provide for the procedure for a legislative post-audit"—I can't even read my own writing—Just one sentence.

CHAIRMAN GRAYBILL: All right. Now, "The Legislature may provide—"

DELEGATE BATES: And—"for the procedure for a legislative post-audit."

CHAIRMAN GRAYBILL: May I say: "The Legislature may provide procedure"?

DELEGATE BATES: "—for the procedures for a legislative post-audit—or auditor".

CHAIRMAN GRAYBILL: Do you want to write it down and send it to the Chair?

DELEGATE BATES: Yes. Mr. Chairman, also, what section does this go into?

CHAIRMAN GRAYBILL: Well, at the moment, it's going to the Legislative, Section 10.

DELEGATE BATES: Section 10. Okay; fine. I'll write it down.

CHAIRMAN GRAYBILL: Very well. Mrs. Bates makes a motion to suspend the rules for the purpose of making the sentence say: "The Legislature may provide the procedures for a legislative post-audit". Is that correct, Mrs. Bates?

DELEGATE BATES: Yes.

CHAIRMAN GRAYBILL: "—the procedures for a legislative post-audit." Now, the meat of the matter is that it makes it discretionary; it says: "The Legislature may provide the procedures for a legislative post-audit."

Now, Mrs. Bates, do you want to discuss your motion to suspend the rules?

DELEGATE BATES: Yes, Mr. Chairman. I feel that this would be better than locking into the Constitution "shall" for something that may not be used effectively. And if it is as it is now, and the Legislature wants it, they can do so. Thank you.

CHAIRMAN GRAYBILL: Is there other discussion of Mrs. Bate's motion?

(No response)

CHAIRMAN GRAYBILL: Shall we have a roll call or not? Yes, roll call. So many as shall be in favor of Mrs. Bates' motion to suspend the rules for the purpose of making the legislative post-audit sentence read, "The Legislature may provide the procedures for a legislative post-audit", vote Aye; and so many as are opposed, vote No. Has every delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, cast the ballot.

Aasheim	Nay
Anderson, J.	Nay
Anderson, O.	Nay
Arbanas	Nay
Arness	Nay
Aronow	Nay
Artz	Nay
Ask	Absent
Babcock	Nay
Barnard	Nay
Bates	Aye
Belcher	Nay
Berg	Nay
Berthelson	Nay
Blaylock	Nay
Blend	Nay
Bowman	Nay
Brazier	Nay
Brown	Nay
Bugbee	Nay
Burkhardt	Nay
Cain	Nay
Campbell	Nay
Cate	Absent
Champoux	Nay
Choate	Nay
Conover	Nay
Cross	Aye
Dahood	Absent
Davis	Excused
Delaney	Absent
Driscoll	Nay
Drum	Nay
Eck	Nay
Erdmann	Nay
Eskildsen	Nay
Etchart	Aye
Felt	Absent
Foster	Aye
Furlong	Nay
Garlington	Nay
Graybill	Nay
Gysler	Nay
Habedank	Nay
Hanson, R.S.	Nay
Hanson, R.	Nay
Harbaugh	Nay
Harlow	Nay
Harper	Nay
Harrington	Absent
Heliker	Nay
Holland	Absent
Jacobsen	Nay
James	Nay
Johnson	Aye
Joyce	Nay
Kamhoot	Absent
Kelleher	Nay
Leuthold	Aye
Loendorf	Aye
Lorello	Absent
Mahoney	Absent
Mansfield	Nay
Martin	Nay
McCarvel	Nay
McDonough	Nay
McKeon	Nay
McNeil	Nay
Melvin	Nay
Monroe	Nay
Murray	Excused
Noble	Nay
Nutting	Excused
Payne	Nay
Pemberton	Absent
Rebal	Absent
Reichert	Aye
Robinson	Nay
Roeder	Absent
Rollins	Nay
Romney	Nay
Rygg	Nay
Scanlin	Absent
Schiltz	Nay
Siderius	Nay
Simon	Nay
Skari	Nay
Sparks	Nay
Speer	Absent
Studer	Absent
Sullivan	Nay
Swanberg	Absent
Toole	Absent
Van Buskirk	Nay
Vermillion	Nay
Wagner	Nay

Ward	Nay
Warden	Nay
Wilson	Nay
Woodmansey	Nay

CHAIRMAN GRAYBILL: Mr. Driscoll. (To clerk) Will you push Mr. Driscoll's point? I didn't hear what you said, Mr.—

DELEGATE DRISCOLL: Driscoll votes No.

CHAIRMAN GRAYBILL: Driscoll voting No.

CLERK HANSON: Mr. Chairman, Driscoll votes No; 8 delegates voting Aye, 71 voting No.

CHAIRMAN GRAYBILL: Very well, 71 having voted No and 8 voting Aye, the motion is defeated.

Mr. Foster, do you want any motions?

DELEGATE FOSTER: (Inaudible)

CHAIRMAN GRAYBILL: Okay. Now, Mr. Joyce, the Chair will entertain a motion from you.

DELEGATE JOYCE: Mr. Chairman, I move that when this committee does arise and report, after having under reconsideration Order of Business Number 5, Final Consideration, Style and Drafting Executive Report Number 4, that it recommend the same be adopted as amended and that the Style and Drafting Committee be instructed to insert the same in the appropriate section of the Legislative Article.

CHAIRMAN GRAYBILL: So many as shall be in favor of Mr. Joyce's motion, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: So many as shall be opposed, say No.

(No response)

CHAIRMAN GRAYBILL: The Ayes have it, and so ordered.

Mr. Eskildsen.

DELEGATE ESKILDSEN: I move the Committee of the Whole rise and finally report.

CHAIRMAN GRAYBILL: The motion is that the Committee of the Whole rise and finally report on this matter. All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

(No response)

CHAIRMAN GRAYBILL: So ordered.

PRESIDENT GRAYBILL: Will the clerk please read the committee report.

CLERK HANSON: "March 20, 1972. Mr. President. We, your Committee of the Whole, having had under consideration business on General Orders, recommend as follows: That the committee rise and finally report. Signed: Graybill, Chairman."

PRESIDENT GRAYBILL: Does anyone want the committee report read in full?

DELEGATES: No.

PRESIDENT GRAYBILL: Very well, Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. President, I move the adoption of the Committee of the Whole report.

PRESIDENT GRAYBILL: The motion is to adopt the Committee of the Whole report. All in favor, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

(No response)

PRESIDENT GRAYBILL: The Ayes have it, and it's adopted.

Mr. Eskildsen.

DELEGATE ESKILDSEN: Without objection, may we be on Order of Business Number 7?

PRESIDENT GRAYBILL: Is there any objection to our moving to Order of Business Number 7, Motions and Resolutions?

(No response)

PRESIDENT GRAYBILL: Very well, without objection, Mr. Eskildsen, we're on Order of Business Number 7.

DELEGATE ESKILDSEN: Mr. President, I move we take the Legislative Article from Style and Drafting and place it on Order of Business Number 5.

PRESIDENT GRAYBILL: The motion is to take the Legislative Article from Style and

Drafting and place it on Order of Business Number 5; the purpose being to adopt into it by final roll call vote, as Mrs. Babcock pointed out, the language we are now moving to it. All in favor of that motion, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed?
(No response)

PRESIDENT GRAYBILL: Very well, Legislature is back on Order of Business Number 5.
Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. President, I move we take Revenue and Finance from Style and Drafting and place it on Order of Business Number 5.

PRESIDENT GRAYBILL: Very well. The purpose of this motion is that we failed to put this one on Order of Business Number 5 this morning; and we did amend that section, so we have to readopt that section on final vote in Order of Business Number 5. All in favor of that motion, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.
(No response)

PRESIDENT GRAYBILL: Very well, both Revenue and Finance and Legislative are now on Order of Business Number 5, along with Local Government and General Government.
Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. President, I move we stand in recess this day until 1:30.

PRESIDENT GRAYBILL: The motion is to recess this convention until 1:30 p.m. this afternoon. All in favor, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Just a moment. All opposed, No.
(No response)

PRESIDENT GRAYBILL: We will recess after Mrs. Warden makes an announcement, I take it.
Mrs. Warden.

DELEGATE WARDEN: Could I see all the members of the Public Information Committee in the Rules Committee room, right now. Thank you.

PRESIDENT GRAYBILL: Very well. Public Information, in the Rules Committee room on recess. We are in recess.

(Convention recessed at 12:25 p.m.—reconvened at 1:50 p.m.)

PRESIDENT GRAYBILL: Members of the Committee—of the Convention, when we adjourned, we were on Order of Business Number 7, having moved Legislative and Revenue and Finance into Order of Business Number 5. Now it's come to our attention that we're not quite through with that, and so Mr. Eskildsen has another motion.

DELEGATE ESKILDSEN: Mr. President, I move we take the Executive proposal from Style and Drafting and refer it to Order of Business Number 5.

PRESIDENT GRAYBILL: The purpose of this motion is, in order to remove that material from Executive, we want to reenact the section with it removed so there's no question that it's properly done. All in favor of moving Executive from Style and Drafting to Order of Business Number 5, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.
(No response)

PRESIDENT GRAYBILL: Very well, now we'll be on—without objection, we'll be on Order of Business Number 5. Now, ladies and gentlemen, if you have your Style and Drafting reports with you, you can follow this, but in any event we'll straighten it up for the record. We're going to take up first the Executive Proposal, Number 4, and we're going to reconsider Section 4 thereof, which appears on—page 2 of the Executive report. And the point of this is that Section 4 has, at the present time, five subdivisions, and the fifth subdivision used to contain the language: "The Legislature may appoint a legislative post-auditor who shall perform such post-auditing duties as may be provided by law." Now, we took that out of that section of Executive this morning, and we left in the language Mrs. Babcock asked about: "The Superintendent of Public Instruction and the auditor shall have such duties as are provided by law.' And we want to reenact on final adoption Section 4 of the Executive Article so that we have approved Section 4 with the deleted matter out. Is there anyone has any question about what we are voting on? It's final adoption on Executive Article, Section 4—Duties—with four—with five subsections. The last subsection has been amended this morning in Committee of the Whole and adopted by the Convention. Very well, the issue is on Section 4. So many as shall be in favor of adopting Section 4 of the Executive Article, as amended this morning, please vote Aye on the voting machine. So many as are opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, will the clerk please take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Absent
Aronow	Absent
Artz	Absent
Ask	Aye
Babcock	Nay
Barnard	Aye
Bates	Nay
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Absent
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Absent
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Excused
Delaney	Absent
Driscoll	Aye
Drum	Absent
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Absent
Foster	Aye
Furlong	Aye
Garlington	Absent
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Absent
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Absent
Kamhoot	Aye
Kelleher	Absent
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Absent
Mansfield	Absent
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Absent
McNeil	Aye
Melvin	Aye
Monroe	Nay
Murray	Excused
Noble	Aye
Nutting	Excused
Payne	Aye
Pemberton	Aye
Rebal	Absent
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Nay
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Absent
Speer	Aye

Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Absent
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Nay
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. President 73 delegates voting Aye, 5 voting No.

PRESIDENT GRAYBILL: 73 having voted Aye and 5 voting No, Section 4, as amended, is adopted on final adoption. All right, now, ladies and gentlemen, if you'll take your Legislative Style and Drafting Report Number 3—Legislative Style and Drafting Report Number 3—and the amendment there is to Section 10 of the unicameral and Section 10 of the bicameral. We'll vote on these separately, since we did originally. Section 10 of the unicameral is on page 3—page 3—and what we will be doing is adding a subsection 6. Section 10 is on organization and procedure and it has—we'll be adding a subsection 5—I beg your pardon. It has four subsections, the last—the fourth of which is, "The Legislature may establish a Legislative Council and other interim committees." We will now be adding a subsection 5 to state: "The Legislature shall establish a Legislative Post-auditing Committee which shall supervise such post-auditing duties as may be provided by law." Now, the only mistake I made there is, it should say: "Legislative Post-audit Committee". "The Legislature shall establish a Legislative Post-audit Committee which shall supervise such post-auditing duties as may be provided by law." Subsection 5 of Section 10 of the unicameral Legislative Article.

Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, just for the purposes of—I probably was asleep when this amendment—or I was thinking of something else when this amendment went in, but for styling purposes and to be uniform, I would like to work out some way to strike that word "such" and strike "as may be" so it conforms with the rest of the document.

PRESIDENT GRAYBILL: Then it would read: "—which shall supervise post-auditing duties provided by law." Is that what you want it to say?

DELEGATE SCHILTZ: (Inaudible)

PRESIDENT GRAYBILL: All right, on the Style and—what makes you think we can do this here?

DELEGATE SCHILTZ: I gave you the flag in the first instance. I said I didn't know that we could do it here, but if we could get some tacit agreement, it would save us going back or saving a section that provides—or that reads differently from all the rest of them.

PRESIDENT GRAYBILL: Mr. Eskildsen, are you with us? No, no—no, not on the phone. Mr. Eskildsen, the problem is that Style and Drafting would like to strike some unnecessary words. Do we have to go back to 10, then? Yes?

DELEGATE ESKILDSEN: No, I don't think so if it can be done without changing the intent of it.

PRESIDENT GRAYBILL: It doesn't change the intent.

DELEGATE ESKILDSEN: I think that they can do it in Style and Drafting then.

PRESIDENT GRAYBILL: Well, but can we do it here?

DELEGATE ESKILDSEN: Yes, we could do it here, if we—you want to make the motions.

PRESIDENT GRAYBILL: All right, Mr. Schiltz, make your motion again. We'll do it here, for better or for worse.

DELEGATE SCHILTZ: Well, I don't have the material in front of me, so I move that the word "such" and the words "as may be" be struck, and if anybody on my committee demurs, please raise his hand.

PRESIDENT GRAYBILL: All right. Now, I've done that on the copy I have here and it now reads: "The Legislature shall establish a Legislative Post-audit Committee which shall supervise post-auditing duties provided by law." We've struck the words—it used to say "which shall supervise such post-auditing duties"—they don't like that word "as may"—and we have struck the "as may"—and just said "as provided by law", so it now says: "—Post-audit Committee which shall supervise post-auditing duties provided by law". So many as shall be in favor of that Style and Drafting change, please say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.
(No response)

PRESIDENT GRAYBILL: All right, that's amended by Style and Drafting. All right, now we're back on Order of Business Number 5, and we're discussing amending Section 10 of the unicameral article by adding a subsection 5 thereto which will say: "The Legislature shall establish a Legislative Post-audit Committee which shall supervise post-auditing duties provided by law." So many as shall be in favor of so amending the unicameral Section 10, vote Aye; and so many as—

DELEGATES: Aye.

PRESIDENT GRAYBILL: No, no—on the voting machines this time. And so many as shall be opposed, vote No. Has every delegate voted?
(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?
(No response)

PRESIDENT GRAYBILL: Very well, we'll take the ballot.
Mr. Driscoll.

DELEGATE DRISCOLL: (Inaudible)

PRESIDENT GRAYBILL: Very well, Mr. Driscoll votes No. Change one Yes to No.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Nay
Babcock	Nay
Barnard	Aye
Bates	Absent
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Absent
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Excused
Delaney	Absent
Driscoll	Nay
Drum	Absent
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Absent
Foster	Aye
Furlong	Aye
Garlington	Absent
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Absent
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Nay
Murray	Excused
Noble	Aye

Nutting	Excused
Payne	Aye
Pemberton	Aye
Rebal	Absent
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Nay
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Absent
Van Buskirk	Aye
Vermillion	Absent
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. President, 81 delegates voting Aye, 5 voting No.

PRESIDENT GRAYBILL: Very well, we've adopted that in the unicameral article. Now, if you will turn on page 2 and 3, behind the manila divider sheet, to the bicameral article, we will put the same amendment to Section 10 of the bicameral article. Now, Section 10 of the bicameral article at this time contains five subdivisions. The new subdivisions will become sub. 5, and if you approve this, sub. 5 will become sub. 6. That's another Style and Drafting change. Let's put it this way: all in favor of making sub. 5—present sub. 5—sub. 6 so that sub. 5 is open, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.
(No response)

PRESIDENT GRAYBILL: There, we've style and drafted it. Now, the motion is—all right, the motion is to put into Section 10 of the bicameral article a subdivision 5 which shall read: "The Legislature shall establish a Legislative Post-audit Committee which shall supervise post-auditing duties provided by law." So many as shall be in favor of the bicameral article with that language inserted as sub. 5 and the other sub. 5, sub. 6, vote Aye on the voting machines; and if you're opposed, vote No. Has every delegate voted?
(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?
(No response)

PRESIDENT GRAYBILL: Very well, cast the ballot.

(Clerk Hanson informed the Chair that the voting machine had not operated properly)

PRESIDENT GRAYBILL: No good? Very well, the voting machine—now it's all right—84 to 4, you got it? Very well, something happened to the voting machine. We're going to void that ballot. So many as shall be in favor on the bicameral article—Section 10—to add that language as subsection 5 and make subsection 5 subsection 6, vote Aye on the voting machines. Has every delegate voted?
(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?
(No response)

PRESIDENT GRAYBILL: Very well, cast the ballot.

Aasheim	Absent
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Absent
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Nay
Barnard	Aye
Bates	Nay
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye

Burkhardt	Absent
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Excused
Delaney	Absent
Driscoll	Aye
Drum	Absent
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Absent
Foster	Aye
Furlong	Aye
Garlington	Absent
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Absent
McNeil	Aye
Melvin	Aye
Monroe	Nay
Murray	Excused
Noble	Aye
Nutting	Excused
Payne	Aye
Pemberton	Aye
Rebal	Absent
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Nay
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Absent
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Nay
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. President, 81 delegates voting Aye, 5 voting No.

PRESIDENT GRAYBILL: 81 voting Aye and 5 voting No, that amendment—that section is adopted as amended. Now, Mr. Aasheim has correctly pointed out that Section 15 of the unicameral article contains a reference to a referendum and contains the bicameral article's—Mr. Aasheim, I don't know if you need to make the motion. The point is, if you'll turn to page 6 in your legislative pamphlets—actually page 5 is Section 15—and on page 6, subsection 3(d), contains Section 10 out of the bicameral article, and we need to add thereto the subsection 5 to (d), Section 10, and make subsection 5, Section 6, just like we did before. So, at this time I'll put the question whether or not you wish to readopt Section 15, as amended. The issue, then, is whether to adopt Section 15 of the unicameral article, which contains Section 10 of the bicameral article as sub. 3 sub. (d), and therein add, as a sub. 5, the language: "The Legislature shall establish a Post-audit Committee which shall supervise post-auditing duties provided by law." So many as shall be in favor of Section 15 with that amendment, vote Aye on the voting machines; so many as are opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, cast the ballot.

Aasheim	Aye
Anderson, J.H.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Absent
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Nay
Barnard	Aye
Bates	Absent
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Absent
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Excused
Delaney	Absent
Driscoll	Aye
Drum	Absent
Eck	Aye
Erdmann	Aye
Eskildsen	Absent
Etchart	Nay
Felt	Absent
Foster	Aye
Furlong	Aye
Garlington	Absent
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Absent
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Nay
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Absent
McNeil	Aye
Melvin	Aye
Monroe	Nay
Murray	Excused
Noble	Aye
Nutting	Excused
Payne	Aye
Pemberton	Aye
Rebal	Absent
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Nay
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Absent
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Nay
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. President, 78 delegates voting Aye, 6 voting No.

PRESIDENT GRAYBILL: 78 having

voted Aye and 6 having voted No, that section is readopted on final reading. Now, ladies and gentlemen, if you'll turn to your Revenue and Finance Style and Drafting Report Number 7—Revenue and Finance—and if you'll turn to page 2 thereof—and on page 2 thereof you'll find Section 6 containing two subdivisions, and the second subdivision contains the 12 words which we struck therefrom this morning upon a motion to suspend the rules. So, at this time, I would like to put to the body for final adoption, Section 6, including two subdivisions, the second of which is amended, of the Revenue and Finance Article, Number X. The amended subdivision now says: "Such revenue may be appropriated for other purposes by a three-fifths vote of the members of each house of the Legislature period." So many as shall be in favor of Section 6, including two subdivisions, as amended, vote Aye on the voting machine. So many as shall be opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, take the ballot.

Aasheim	Aye
Anderson, J.H.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Absent
Aronow	Aye
Artz	Aye
Ask	Nay
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Absent
Cain	Aye
Campbell	Aye
Cate	Aye
Champoux	Absent
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Excused
Delaney	Absent
Driscoll	Aye
Drum	Absent
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Nay
Felt	Absent
Foster	Aye
Furlong	Nay
Garlington	Absent
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Absent
McNeil	Aye
Melvin	Aye
Monroe	Nay
Murray	Excused
Noble	Aye
Nutting	Excused
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye

Scanlin	Absent
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Absent
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. President, 83 delegates voting Aye, 3 voting No.

PRESIDENT GRAYBILL: 83 having voted Aye and 3 voting No, Section 6, as amended, of Revenue and Finance is readopted. Now, if I may have your attention, someone has pointed out to me that on the second vote on the bicameral Legislative Article, they say I did not call for a No vote, and that's entirely proper—or possible. However, it was a recorded machine vote, and you could have voted No, and in fact some did. Does anyone want to test—or does anyone challenge that? Now is the time to challenge it. It was overwhelmingly Aye.

(No response)

PRESIDENT GRAYBILL: So, if everybody understood that they could vote No, I guess the record may so show. We'll throw that one away.

All right, Mr. Eskildsen, I think we should—

DELEGATE ESKILDSEN: Without objection, Mr. President, may we be on Order of Business Number 10?

PRESIDENT GRAYBILL: Well, before we go to Order of Business Number 10, the Chair will reassign Revenue and Finance and Legislative and Executive back to Style and Drafting for inclusion in the final document, as amended. Very well, now, you want to be on Order of Business Number 10?

Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. President, wasn't there one more? Wasn't there four of them? Maybe—let's see, Executive, Legislative, Revenue and Finance—I guess you're right. Pardon me. Mr. President, I move the Convention resolve itself into Committee of the Whole for the purpose of handling business under General Orders.

PRESIDENT GRAYBILL: The motion is that this Convention resolve itself into a Committee of the Whole. All in favor, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

(No response)

PRESIDENT GRAYBILL: So ordered.

(Convention resolved into Committee of the Whole, Graybill, Chairman)

CHAIRMAN GRAYBILL: Very well, we're in Committee of the Whole now, and we will take up Report Number 11, Local Government. If you'll turn to page 5 in your Local Government Style and Drafting proposal. You will recall that—

Mr. Gysler, for what purpose do you arise?

DELEGATE GYSLER: Mr. Chairman, we had Number 11 on our desks this morning and the pages came along and took them away, and I haven't received another one yet.

CHAIRMAN GRAYBILL: Is there anyone else doesn't have Number 11? Will the pages get Mr. Gysler and Mr. Johnson Number 11. Look on my desk, Erv.

DELEGATE GYSLER: You're missing, too.

CHAIRMAN GRAYBILL: How about 11? How many don't have 11?

(Various delegates raised their hands)

CHAIRMAN GRAYBILL: All right, can the pages find some Number 11s? Check the—you might as well look for Number 12 while you're doing it. Now, those who did not get Number 11, hold up your hands, and the page will give them to you. May the committee be in order. Very well, we're going to take up first Local Government, Number 11 on page—you should turn to page 5. Now, before we do that, Mr. Schiltz, will you make a motion that we suspend the rules—suspend Rule 23, concerning the 48 hours?

DELEGATE SCHILTZ: I move that we suspend Rule 23, the requirement that Style and Drafting reports be on the desks for 48 hours, or any other committee report, for the purpose of taking the matter up at this time.

CHAIRMAN GRAYBILL: Very well, the motion is to suspend Rule 23 on Local Government Proposal Number 11 so that we may consider it at this time, it not having lain 48 hours on your desks. All in favor of the motion, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: So ordered. Will the clerk please read the title and Section 1 of the Proposal Number 11.

CLERK HANSON: "Montana Constitutional Convention, 1971-1972, Report of Committee on Style, Drafting, Transition and Submission on Local Government, Number 11. Reported March 20, 1972; John M. Schiltz, Chairman. Be it proposed by the Local Government Committee that there be a new article on local government to read as follows: Article, Local Government. Section 1. Definition." Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, if I can make a short statement first, I want the committee to know that I didn't quit with Mr. Woodmansey and that I'm up here because there's some filming being done, and then if I lapse into Wilsonesque or Mahoneyesque at some time, it won't be anything but a change in style; all the substance will still be there. Ready?

CHAIRMAN GRAYBILL: Very well.

DELEGATE SCHILTZ: I move that when this committee does rise and report, after having had under consideration Section 1, Local Government Style and Drafting Report Number 11, it recommend the same be adopted. Mr. Chairman, there are no changes in Section 1.

CHAIRMAN GRAYBILL: Is there any discussion of Section 1?
(No response)

CHAIRMAN GRAYBILL: So many as shall be in favor of Section 1—of Mr. Schiltz's motion that we adopt Section 1, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted. Read Section 2, Mr. Clerk.

CLERK HANSON: "Section 2. Counties." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration Section 2, Style and Drafting Report Number 11, it recommend the same be adopted.
Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Minor style changes. We changed the wording "adoption" to "date of ratification". Otherwise, a couple of singulars. We did change a "shall" to a "may" because there was a negative already in there. Otherwise, all style.

CHAIRMAN GRAYBILL: Is there any discussion of Section 2?
(No response)

CHAIRMAN GRAYBILL: So many as shall be in favor of Section 2, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted. Will the clerk please read Section 3.

CLERK HANSON: "Section 3. Forms of government"; containing two subsections. Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration Section 3, subsection 1, Style and Drafting Report Number 11, it recommend the same be adopted. Mr. Chairman, some change in language. You'll note we did put a "such" in here, but it needed it because of a previous reference. Otherwise, minor style changes.

CHAIRMAN GRAYBILL: Is there any discussion of Section 3, sub. 1?
(No response)

CHAIRMAN GRAYBILL: Very well, everyone in favor of Mr. Schiltz's motion on Section 3, sub. 1, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Section 3, sub. 2, Style and Drafting Report Number 11, it recommend the same be adopted. Again, Mr. Chairman, some rearrangement of language without any change in the substance. All style changes.

CHAIRMAN GRAYBILL: Very well, is there any discussion of Section 3, sub. 2?
(No response)

CHAIRMAN GRAYBILL: Very well. All in favor of Section 3, sub. 2, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted. Will the clerk read Section 3—or 4.

CLERK HANSON: "Section 4. General powers"; containing two subsections. Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Section 4, subsection 1, Style and Drafting Report Number 11, it recommend the same be adopted. Mr. Chairman, once again, we rearranged the language. We deleted the part about "under Sections 5 and 6" for the reason that that's the only way that any self-government powers could be had and we didn't see any necessity for—that's on line 12—any necessity for that language; put the material into subsections. Otherwise, it's all style.

CHAIRMAN GRAYBILL: Please note that 4, sub. 1, has (a), (b), and (c) in it now, so that we're talking about lines 11 through 23 on page 6. Is there any discussion?
(No response)

CHAIRMAN GRAYBILL: Very well. So many as shall be in favor of Mr. Schiltz's motion on Section 4, sub. 1, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted. Section 4, sub. 2, Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Section 4, sub. 2, Style and Drafting Report Number 11, it recommend the same be adopted. Mr. Chairman, we moved what had been a subsection 3 down and gave it the dignity of a subsection all by itself. The same material.

CHAIRMAN GRAYBILL: Is there any discussion of subsection 2?
(No response)

CHAIRMAN GRAYBILL: Very well. All in favor of Section 4, subsection 2, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted. Mr. Clerk, read Section 5.

CLERK HANSON: "Section 5. Self-government charters"; containing three subsections. Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Section 5, subsection 1, Style and Drafting Report Number 11, it recommend the same be adopted. Mr. Chairman, these are style changes. I will raise one flag. And on line 27, we struck out the words "and may set limits" for the reason that if nothing is said on that subject, the Legislature may set limits in any case. We thought the language unnecessary and so deleted it. Otherwise, some substitution of words and style changes.

CHAIRMAN GRAYBILL: Is there any discussion of Section 5?
(No response)

CHAIRMAN GRAYBILL: Very well, all in favor of adopting Section 5, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?
(No response)

CHAIRMAN GRAYBILL: Section 5 is adopted. Section 5, sub. 2, Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Section 5, subsection 2, Style and Drafting Report Number 11, it recommend the same be adopted. Mr. Chairman, very few changes. Gave subsection 2 a new number, and that's all.

CHAIRMAN GRAYBILL: Any discussion of 5, sub. 2?
(No response)

CHAIRMAN GRAYBILL: All in favor of Section 5, sub. 2, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?
(No response)

CHAIRMAN GRAYBILL: It's adopted.— 5 sub. 3.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Section 5, sub. 3, Style and Drafting Report Number 11, it recommend the same be adopted. Mr. Chairman, we struck the words, on line 9, "with respect to a local government unit" because this is what, after all, we're talking about, and we didn't think they were necessary.

CHAIRMAN GRAYBILL: Any discussion of 5, sub. 3?
(No response)

CHAIRMAN GRAYBILL: All in favor of Section 5, sub. 3, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?
(No response)

CHAIRMAN GRAYBILL: It's adopted. Section 6, Mr. Clerk.

CLERK HANSON: "Section 6. Self-government powers." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Section 6, Style and Drafting Report Number 11, it recommend the same be adopted. Mr. Chairman, these are all rather minor style changes.

CHAIRMAN GRAYBILL: Any discussion of Section 6?
(No response)

CHAIRMAN GRAYBILL: All in favor of Section 6, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted. Section 7, Mr. Clerk.

CLERK HANSON: "Section 7. Intergovernmental corperation." "—cooperation"; sorry, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration Section 7, Style and Drafting Report Number 11, it recommend the same be adopted. Mr. Chairman, members of the committee. We completely rewrote Section 7, and if you read the way it was in the first instance and compare it with the way we rewrote it, I think you'll see why. It was one rather long, involved sentence, and we broke it up into possibly one or two sentences—in two sections—but think we made it eminently more readable without involving any substantive changes.

CHAIRMAN GRAYBILL: On Section 7, sub. 1—is there any discussion?
(No response)

CHAIRMAN GRAYBILL: Sub. 1 contains (a), (b) and (c). Very well, all those in favor of Section 7, sub. 1, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?
(No response)

CHAIRMAN GRAYBILL: It's adopted. Section 7, sub. 2.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration Section 7, sub. 2, Style and Drafting Report Number 11, it recommend the same be adopted. Mr. Chairman, this language was in what had been in just one section, and we made a subsection of it.

CHAIRMAN GRAYBILL: Any discussion of Section 7, sub. 2?
(No response)

CHAIRMAN GRAYBILL: All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?
(No response)

CHAIRMAN GRAYBILL: It's adopted. Section 8, Mr. Clerk.

CLERK HANSON: "Section 8. Initiative and referendum." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Section 8, Style and Drafting Report Number 11, it recommend the same be adopted. Mr. Chairman, style changes; nothing substantive altered.

CHAIRMAN GRAYBILL: Any changes in Section 8 to discuss?
(No response)

CHAIRMAN GRAYBILL: All in favor of Section 8, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted. Section 9.

CLERK HANSON: "Section 9. Voter review of local government"; containing two subsections. Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Section 9, subsection 1, Style and Drafting Report Number 11, it recommend the same be adopted. Mr. Chairman, we changed the word "adoption" to "ratification", as a more precise word. You'll notice we substituted "combination of units" instead of—on line 16—instead of using the word "jointly" or "joint unit" on line 17 and 18. We have not changed the substance.

CHAIRMAN GRAYBILL: Is there any question or debate about 9, sub. 1?
(No response)

CHAIRMAN GRAYBILL: All in favor of 9, sub. 1, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?
(No response)

CHAIRMAN GRAYBILL: It's adopted.— 9, sub. 2.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Section 9, subsection 2, Style and Drafting Report Number 11, it recommend the same be adopted. Mr. Chairman, very minor changes; no change in substance.

CHAIRMAN GRAYBILL: Any question about 9, sub. 2?
(No response)

CHAIRMAN GRAYBILL: Very well; all in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?
(No response)

CHAIRMAN GRAYBILL: —9, sub. 2, is adopted. Now, please do not—we'll set the Local Government book aside, but please do not put it away. We're going to use it again. Now, members of the committee, we're prepared to start on General Government, Number 12, page 5. Mr. Schiltz, may the Chair have a motion that Rule 23, requiring that this be on the desks 48 hours before consideration on Style and Drafting's report, be waived.

DELEGATE SCHILTZ: Mr. Chairman, I move that Rule 23 be waived so that we may consider Style and Drafting Report Number 12, it not having lain on the desks for 48 hours.

CHAIRMAN GRAYBILL: All in favor of that motion, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: So ordered. Very well, will the clerk read the title and Section 1 of the General Government Article.

CLERK HANSON: "Montana Constitutional Convention, 1971-72, Report of Committee on Style, Drafting, Transition and Submission of General Government. Number 12. Reported March 20, 1972; John M. Schiltz, Chairman. Be it proposed by the General Government and Constitutional Amendment Committee that there be a new article on General Government to read as follows: Article. General Government. Section 1. Separation of powers." Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Section 1, Style and Drafting Report Number 12, it recommend the same be adopted. Mr. Chairman, on line 11, we took out the word "collection of", before "persons", so it reads "no person or persons", thinking it means exactly the same thing. Otherwise, style changes.

CHAIRMAN GRAYBILL: Is there any discussion of General Government Section 1?
(No response)

CHAIRMAN GRAYBILL: All those in favor of Mr. Schiltz's motion, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: So ordered. It's adopted. Section 2, Mr. Clerk.

CLERK HANSON: "Section 2. Continuity of government." Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Section 2, Style and Drafting Report Number 12, it recommend the same be adopted. Mr. Chairman, we made some of the usual style changes that everybody is used to by now—"Legislature" for "Legislative Assembly"—such laws—no significant changes. We had a little difficulty, just for information, on line 22. We put in the word "they" in our rearrangement. "They" refers to laws, and we couldn't think of a better way to do it and decided that was the best way.

CHAIRMAN GRAYBILL: Any discussion or debate of Section 2?
(No response)

CHAIRMAN GRAYBILL: All in favor of Section 2, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: No.

CHAIRMAN GRAYBILL: It's adopted. Section 3, Mr. Clerk.

CLERK HANSON: "Section 3. Oath of office." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Section 3, Style and Drafting Report Number 12, it recommend the same be adopted. Mr. Chairman, we made no changes—very few changes in the oath itself—I—No, we didn't change the oath itself. We made some changes in the preliminary material, but there's nothing that alters substance; we took out the offensive "to-wit"—all style changes.

CHAIRMAN GRAYBILL: Any discussion of Section 3?
(No response)

CHAIRMAN GRAYBILL: All in favor of Section 3, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?
(No response)

CHAIRMAN GRAYBILL: It's adopted. Section 4, sub. 1.

DELEGATE SCHILTZ: Mr.—

CLERK HANSON: "Section 4. Initiative"; containing three subsections. Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Section 4, subsection 1, Style and Drafting Report Number

12, it recommend the same be adopted. Mr. Chairman, we made no changes in subsection 1.

CHAIRMAN GRAYBILL: Mr. Brown.

DELEGATE BROWN: Mr. Chairman, I would like to amend subsection 1 on page 2, line 6, by striking "prohibited by this Constitution". We consider this a style change, and I'd like to be heard.

CHAIRMAN GRAYBILL: All right, that would be on—I'm on page 6. What are you on, Mr. Brown?

DELEGATE BROWN: Well, I can go to 6. It would be line 9 on page 6.

CHAIRMAN GRAYBILL: Line 9—and you want to say "prohibited by this Constitution"—you want to strike all of that?

DELEGATE BROWN: Yes.

CHAIRMAN GRAYBILL: And you consider that a style change?

DELEGATE BROWN: That's correct.

CHAIRMAN GRAYBILL: All right, why don't you discuss it, and I'll read it.

DELEGATE BROWN: This provision is taken from our old Constitution, and it prohibits local or special laws as enumerated in the old Constitution. If you go to Article V, Section 26, of the old Constitution, it limits—it sets forth all the local or special laws that cannot be enacted by initiative or by the Legislative Department. We thought that there would be prohibitions in the Constitution against local or special laws; but in reading the Legislative Article, it only refers that the Legislature may not pass special or local laws. This conflict was brought to my attention by Mr. Mahoney, and I met with the committee and I met with Mr. Cromwell and Mr. Schiltz, and it was the sense of the committee that you could not pass special or local laws by initiative and we would provide for the prohibition elsewhere in the Constitution. Since that has not appeared elsewhere, we should strike that language so that it carries out the sense of the committee, and I'm sure the sense of the delegation; so we considered it a style change.

CHAIRMAN GRAYBILL: Very well, the Chair considers it a style change. Mr. Schiltz, do you care to speak on it?

DELEGATE SCHILTZ: The Style and Drafting Committee has no opinion on that. If it's the desire of the body to take out "prohibited by this Constitution", that's fine with us.

CHAIRMAN GRAYBILL: It would seem to the Chair that, especially with the conjunctive—we got two conjunctives in there, "or" and "and"—that we had better take out the rest of it or we may really have caused it to be very mixed up. Does anybody else want to discuss it?

(No response)

CHAIRMAN GRAYBILL: Very well, all of those in favor of Mr. Brown's motion to strike the words "prohibited by this Constitution", on line 9 and 10 on page 6, of the General Government Article, Number XIII—XII—so many as are in favor of Mr. Brown's motion to strike that language, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

(No response)

CHAIRMAN GRAYBILL: It's amended by Mr. Brown's motion.

Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration Section 4, subsection 1, Style and Drafting Report Number 12, it recommend the same be adopted as amended.

CHAIRMAN GRAYBILL: Is there other discussion of Section 4?

DELEGATE ROMNEY: Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Romney.

DELEGATE ROMNEY: Would you please have the clerk read that as amended.

CHAIRMAN GRAYBILL: Yes, I'll read it back. As amended, it says: "Initiative. 1. The people may enact laws by initiative on all matters except appropriations of money and local or special laws." And it struck out the words "prohibited by this Constitution", since there was no such prohibition of all those things in other parts of the Constitution. All right; now, as amended, is there further discussion? You've all heard Mr. Schiltz's motion that this section, as amended, be now adopted. All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted as amended.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Section 4, subsection 2, Style and Drafting Report Number 12, it recommend the same be adopted. Mr. Chairman, we rearranged this subsection—and considerably—but if you notice the material on lines 17 and 18—we moved that up, to begin the statement with it, so we didn't lose that material, and otherwise rearranged it stylistically.

CHAIRMAN GRAYBILL: Any discussion of Section 4, sub. 2?
(No response)

CHAIRMAN GRAYBILL: All in favor of Section 4, sub. 2, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Section 4, subsection 3, Style and Drafting Report Number 12, the same be adopted. Mr. Chairman, changed the word "once" to "after" for stylistic reason. No other changes.

CHAIRMAN GRAYBILL: Sub. 3; any discussion?
(No response)

CHAIRMAN GRAYBILL: All in favor of Section 4, sub. 3, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted. Will the clerk read Section 5, please.

CLERK HANSON: "Section 5. Referendum"; containing two subsections. Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Section 5, subsection 1, Style and Drafting Report Number 12, it recommend the same be adopted. Mr. Chairman, these are all style changes. There are quite a few of them. On line 26, we deleted "may" and inserted "shall", which may or may not be a substantive change, but as we understand a referendum, once it's held or had, it's—"shall" is required rather than "may". Otherwise, made some of the usual style changes, like "qualified electors", which was in their first article. Incidentally, before anybody says anything about it, it's a style rule that for numerals or numbers that are less than 10, you spell them out; when they're more than 10, you use the numerals; so we knew what we were doing when we kept the F-I-V-E in there for five.

CHAIRMAN GRAYBILL: Mr. Harbaugh.

DELEGATE HARBAUGH: I'd like to ask Mr. Schiltz a question.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: I yield.

DELEGATE HARBAUGH: On line 30, does the terminology "legislative representative districts" pose any question in your mind as it relates to unicameral or—

DELEGATE SCHILTZ: Well, that—I know what you're talking about. That involved considerable discussion yesterday in the Style and Drafting Committee, and we decided that if we put—if we left "legislative representative districts" in as it was, there could be no doubt about it and if we did it any differently there might be.

DELEGATE HARBAUGH: Mr. Chairman, my thought is that throughout the unicameral, I believe we've referred to the legislators elected as senators, did we not? And this is—I don't know what the solution would be, but—

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Well, it's a very difficult solution, and we decided that in both the unicameral and the bicameral articles, there is a representative district that is set up and that this would identify it in each of those articles.

CHAIRMAN GRAYBILL: Mr. Habedank.

DELEGATE HABEDANK: Mr. President, that was the thinking of the General Government Committee. We discussed this at great length, and we felt this was the only one that would cover both sections. However, Mr. President, I would like to, with your permission, go back to the preceding subsection 2 of Section 4 to call attention to the Style and Drafting Committee that in that section we have said: "Each initiative petition must contain the full text of the proposed measure." That is correct. But then, they went on to say "each shall be signed by at least 5 percent or more of the qualified electors". And it's a physical impossibility, of course, to have each petition signed by 5 percent or more; and I feel that the wording of the committee would be more accurate.

CHAIRMAN GRAYBILL: In other words, the wording "initiative petitions shall be signed by at least 5 percent".

DELEGATE HABEDANK: Yes, and then down below—

CHAIRMAN GRAYBILL: Indicating the whole petition, rather than each sheet of paper, which would have to get a little long.

DELEGATE HABEDANK: That's correct. And then, down below, "the petition shall be filed". In the interests of—

CHAIRMAN GRAYBILL: Where would that be?

DELEGATE HABEDANK: That would be down on line 19. In other words, I think it should read: "Initiative petitions shall be signed by at least 5 percent", and then on line 19, "petitions shall be filed with the Secretary of State", rather than each or just one petition. The way it's worded now, it would indicate one petition containing all of the names must be filed.

CHAIRMAN GRAYBILL: Well, the Chair will allow you and the Style and Drafting people to discuss this, and if we are in agreement on what to do, we'll go back and reconsider it.

Mr. Schiltz.

DELEGATE SCHILTZ: I think Mr. Habedank has a good point, and I wouldn't belabor the point. I would add—I would strike "each" on line 11—I move to strike "each" on line 11—

CHAIRMAN GRAYBILL: Now, wait a minute. You can't do it yet. Do you think you can do this, though?

DELEGATE SCHILTZ: Yes.

CHAIRMAN GRAYBILL: All right, let's have a motion to reconsider Section 4, sub. 2.

DELEGATE SCHILTZ: All right, I move that we reconsider Section 4, sub. 2, for style changes.

CHAIRMAN GRAYBILL: All in favor of reconsidering Section 4, sub. 2, for style changes, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

(No response)

CHAIRMAN GRAYBILL: All right, now it's reconsidered.

DELEGATE SCHILTZ: Mr. Chairman, I move to strike the word "each" on line 11, make it capital "I" out of—on the first letter of initiative, add an "s" to petitions on that same line; on line 19, strike the word "A" and make a capital "P" of petitions, and add an "s".

CHAIRMAN GRAYBILL: All right, on line 12, it'll read: "Initiative petitions"—strike "each"—and go right to "shall"; right? "Initiative petitions shall be signed by at least 5 percent". Then you go down to line 19, and you're going to strike "A" and you're going to start with a capital "P" for petitions—"Petitions shall be filed"; right?

DELEGATE SCHILTZ: Right. I'm not sure you had the line 11 correct, though. It would read: "Initiative petitions must contain the full text—."

CHAIRMAN GRAYBILL: I see. And then you want to say: "Initiative petitions shall be signed"—is that right—or are you going to leave that "each" in? I see; you're making a change in a different line.

DELEGATE SCHILTZ: Right.

CHAIRMAN GRAYBILL: Mr. Habedank, what do you think of his change?

DELEGATE HABEDANK: I would have changed it differently, but I think he's getting to it. I think we need to strike, then, on line 12, the other word "each" again, so it reads: "Initiative petitions must contain the full text of the proposed measure, shall be signed by at least 5 percent." In other words, you need to strike another each.

DELEGATE SCHILTZ: All right, I'll make another amendment. On line 12, change the comma—"the measure"—delete the period after "measure" and insert the word "and".

CHAIRMAN GRAYBILL: And strike "each", right?

DELEGATE SCHILTZ: And strike "each", right.

CHAIRMAN GRAYBILL: Now, if everybody is with us, they've been very careful. All right, now, the Chair thinks that it now reads as follows: Section 4, sub. 2—capital "I"—"Initiative petitions must contain the full text of the proposed measure, and"—strike everything over to the word "shall"—"shall be signed by at least 5 percent of the qualified electors", et cetera. Then you go down to line 19, and it would say: "Petitions shall be filed with the Secretary of State at least 3 months—." Is that what you want, or do you want "the petitions"? Just "petitions". Now, Mr. Habedank, is that agreeable with you?

DELEGATE HABEDANK: Yes, except I think in line 21, it should go back to "they", then.

CHAIRMAN GRAYBILL: "At least 3 months prior to the election at which they will be voted upon", since we're not talking about many petitions. Mr.—you don't care?

DELEGATE HABEDANK: That isn't good, either. "Prior to the election at which—"

DELEGATE SCHILTZ: That's all right.

DELEGATE HABEDANK: "—they will be voted upon"? You wouldn't vote upon it.

CHAIRMAN GRAYBILL: "—the matter"?

DELEGATE SCHILTZ: "—the matter"—

DELEGATE HABEDANK: I prefer "the matter"—it would make more sense.

CHAIRMAN GRAYBILL: "At which the matter will be voted upon"? On line 21, put in, "the matter"? All right, now Section 4, sub. 2, reads: "Initiative petitions must contain the full text of the proposed measure, and shall be signed by at least 5 percent of the qualified electors in each of at least one-third of the legislative representative districts, and the total number of signers must be at least 5 percent of the total qualified electors of the state. Petitions shall be filed with the Secretary of State at least 3 months prior to the election at which the matter will be voted upon."

DELEGATE SCHILTZ: Couldn't we say "measure"? That's the previous word.

CHAIRMAN GRAYBILL: "—the measure will be voted upon"?

DELEGATE SCHILTZ: Right.

CHAIRMAN GRAYBILL: "—at which the measure—"

DELEGATE SCHILTZ: Yes.

CHAIRMAN GRAYBILL: "—will be voted upon".

Mr. Habedank.

DELEGATE HABEDANK: Would you consider, as long as you put the comma after the word "measure", striking the "and"? It would then read: "Initiative petitions must contain the full text of the proposed measure, shall be signed by at least 5 percent of the qualified electors in each of at least one-third of the legislative representative districts"—and then you have your "and"—

CHAIRMAN GRAYBILL: Okay. We have stricken "and" on line 12. Mr. Schiltz, you don't know how happy it makes the rest of us to be involved in Style and Drafting for a change.

DELEGATE SCHILTZ: You may all come to the meetings.

CHAIRMAN GRAYBILL: All right. Is that all right, Mr. Habedank?

DELEGATE HABEDANK: Yes. Thank you very much.

CHAIRMAN GRAYBILL: All right. Now, does anyone want that reread?

DELEGATES: Yes.

CHAIRMAN GRAYBILL: Yes. Okay. Section 4, sub. 2. "Initiative petitions must contain the full text of the proposed measure, shall be signed by at least 5 percent of the qualified electors in each of at least one-third of the legislative representative districts, and the total number of signers must be at least 5 percent of the total qualified electors of the state. Petitions shall be filed with the Secretary of State at least 3 months prior to the election at which the measure will be voted upon." Is there further discussion?

(No response)

CHAIRMAN GRAYBILL: All in favor of the new language, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

(No response)

CHAIRMAN GRAYBILL: It's adopted as amended.

DELEGATE SCHILTZ: Is it adopted, or have we just adopted the language?

CHAIRMAN GRAYBILL: All right, we've just adopted the language. Now, move it as amended, Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Section 4, subsection 2, it recommend the same be—Style and Drafting Report Number 12, it recommend the same be adopted as amended.

CHAIRMAN GRAYBILL: All in favor of the motion, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

(No response)

CHAIRMAN GRAYBILL: It's adopted. Section 4, sub. 3, Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, I previously moved Section 4, sub. 3, and noted that we'd only changed one word.

CHAIRMAN GRAYBILL: I see. All right, I guess we were down on Section 5.

DELEGATE SCHILTZ: No, we haven't passed 4, sub. 3. I just moved it, and then Mr. Habedank wanted—

CHAIRMAN GRAYBILL: I see.

DELEGATE SCHILTZ: Okay, I guess we did. Okay; all right.

CHAIRMAN GRAYBILL: I think sub. 3 is adopted, isn't that right?

DELEGATE SCHILTZ: Okay.

CHAIRMAN GRAYBILL: And we're on Section 5, sub. 1, which I think you'd better move again.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Section 5, subsection 1, Style and Drafting Report Number 12, it recommend the same be adopted. Mr. Chairman, I guess I did. I talked about the numerals and so on. Okay. Otherwise, no major changes, not even any major style changes. Oh, I did note that we changed "may" to "shall be", and I explained why.

CHAIRMAN GRAYBILL: Any discussion of Section 5, sub. 1?

(No response)

CHAIRMAN GRAYBILL: All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

(No response)

CHAIRMAN GRAYBILL: It's adopted. Section 5, sub. 2.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Section 5, subsection 2, Style and Drafting Report Number 12, it recommend the same be adopted. Mr. Chairman, the committee will note here that we have made some style changes. We put the word "law" in here—or "act" in for "law", because in Section 1 they had referred to an act and we wanted one word throughout. And then, one other place we changed "bill" to "act"; I guess that was in the previous subsection.

CHAIRMAN GRAYBILL: Mr. Habedank.

DELEGATE HABEDANK: Mr. President, I think we have the same change in subsection 2, line 9, that we had in subsection 2, Section 4. "Petitions" should be filed, not just one petition. In other words, that particular word should read "petitions"—line 9.

CHAIRMAN GRAYBILL: I see it.

Mr. Schiltz.

DELEGATE SCHILTZ: No problem. I move that—Mr. Chairman, I move that line—no, let me see—that Section 5, subsection 2, Style and Drafting Report Number 12, line 9, that the word "petition" be made plural by adding an "s".

CHAIRMAN GRAYBILL: Very well, the motion is to make the word "petition" plural. All in favor, say Aye.

CHAIRMAN GRAYBILL: Aye.

CHAIRMAN GRAYBILL: Opposed?
(No response)

CHAIRMAN GRAYBILL: That's adopted. Now, you want to re-move 5, sub. 2?

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration Section 5, sub. 2, Style and Drafting Report Number 12, it recommend the same be adopted as amended.

CHAIRMAN GRAYBILL: All in favor of 5, sub. 2, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?
(No response)

CHAIRMAN GRAYBILL: It's adopted as amended. Section 6.

CLERK HANSON: "Section 6. Elections." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Section 6, Style and Drafting Report Number 12, it recommend the same be adopted. Mr. Chairman, the committee will note that we completely rewrote this, but it's very simple. We put it in the active voice as against the passive voice.

CHAIRMAN GRAYBILL: Is there any discussion of Section 6?
Mr. Harlow.

DELEGATE HARLOW: Mr. Chairman, I think in your rewriting, you cut out a necessary word. Mr. Schiltz, what do you feel—that, in line 20, after the word "referendum", we put in "measures"—in other words, what are the people voting on? Am I wrong in my assumption?

DELEGATE SCHILTZ: Well, I don't think it's necessary, but if you want to make a motion, I won't resist it. I think we have used "measures" in the beginning. It wasn't in the original language.

DELEGATE HARLOW: In 6—

DELEGATE SCHILTZ: Well, we have all "measures", yes—so I see what you mean.

DELEGATE HARLOW: Yes.

DELEGATE SCHILTZ: Well, if you want to make the motion, go ahead.

DELEGATE HARLOW: Well, Mr. Chairman, I move that we amend the Style and Drafting report on General Government in Section 6, line 20, after the word "referendum", by inserting the word "measures".

CHAIRMAN GRAYBILL: Very well. Mr. Harlow proposes that we add the words "measures" so it reads: "The people shall vote on initiative and referendum measures at the general election unless the Legislature orders a special election." All in favor of Mr. Harlow's amendment, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted. Mr. Schiltz, do you want to put the—

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Section 6, Style and Drafting Report Number 12, it recommend the same be adopted as amended.

CHAIRMAN GRAYBILL: Further discussion?
(No response)

CHAIRMAN GRAYBILL: All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: Section 6 is adopted as amended. Section 7.

CLERK HANSON: "Section 7. Number of electors." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Section 7, Style and Drafting Report Number 12, it recommend the same be adopted. Mr. Chairman, we completely rewrote this without changing anything substantive, for two reasons. We put it into the active voice as opposed to the passive, and we adopted the language we'd used in another article, and I can't tell you right now exactly what article that was.

CHAIRMAN GRAYBILL: Mr. Habedank.

DELEGATE HABEDANK: Mr. Chairman, I feel that the committee did change it, in line 30, when they left out the words "the office of" following the word "for", and I would move that they be reinstated—"votes cast for the office of Governor".

DELEGATE SCHILTZ: I agree to that, Mr. Chairman.

CHAIRMAN GRAYBILL: In other words, you add the votes for both the winner and the loser to get the total number of votes. All right, in line 30, Mr. Habedank has proposed a motion to add the words "the office of" before the word "Governor", so that it reads: "—shall be determined by the number of votes cast for the office of Governor in the preceding general election". So many as shall be in favor of Mr. Habedank's amendment, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: The amendment is adopted.
Mr. Schiltz, do you want to put that again?

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Section 7, Style and Drafting Report Number 12, it recommend the same be adopted as amended.

CHAIRMAN GRAYBILL: Is there further discussion?
(No response)

CHAIRMAN GRAYBILL: All in favor of Section 7 as amended, please say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?
(No response)

CHAIRMAN GRAYBILL: It's adopted as amended. Section 8 on page 8.

CLERK HANSON: "Section 8. Prohibition." Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Section 8, Style and Drafting Report Number 12, it recommend the same be adopted. Mr. Chairman, we put the Roman numeral XIII in on line 3 because we've now worked out a schedule of where the articles will fall, and so we supplied that. Otherwise, style changes.

CHAIRMAN GRAYBILL: Any further discussion of Section 8?
(No response)

CHAIRMAN GRAYBILL: All in favor of Section 8, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted. Section 9.

CLERK HANSON: "Section 9. Recall." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Section 9, Style and Drafting Report Number 12, it recommend the same be adopted. Mr. Chairman, as we have been doing, we inserted "local government units" instead of "its political subdivisions". Otherwise, no change of any significance.

CHAIRMAN GRAYBILL: All in favor of Section 9, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

CHAIRMAN GRAYBILL: It's adopted. Section 10.

CLERK HANSON: "Section 10. Gambling." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Section 10, Style and Drafting Report Number 12, it recommend the same be adopted. Mr. Chairman, you will note here, we have two Section 10s. They'll both be included in the Constitution; there'll be a choice to the voters, as was required by the Committee of the Whole. The adoption schedule, when we finally put it together on the entire Constitution, will provide for the deletion of one of them when the time comes.

CHAIRMAN GRAYBILL: Is there any question about either Section 10?
(No response)

CHAIRMAN GRAYBILL: All right. All in favor of the first Section 10, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted. Second Section 10, Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

CHAIRMAN GRAYBILL: It's adopted. Both Section 10s are adopted. Section 11.

CLERK HANSON: "Section 11. Boundaries." Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Section 11, Style and Drafting Report Number 12, it recommend the same be adopted. Mr. Chairman, we have a rather major substantive change here on line 25, we made "Bitter Root" into two words. And on that same line, we edited the poet of wherever he's from, by putting a "t" in front of "hence", because there can be no doubt that thence was intended rather than hence.

CHAIRMAN GRAYBILL: All in favor of Section 11, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

CHAIRMAN GRAYBILL: The Chair is not in doubt. (Laughter) You want a division?

UNIDENTIFIED DELEGATE: Yes.

CHAIRMAN GRAYBILL: All right. All in favor of Section 11, say Aye; and opposed, No. Has every delegate voted?
(No response)

CHAIRMAN GRAYBILL: Does every delegate know what they are voting on?

DELEGATES: No—(Laughter)

CHAIRMAN GRAYBILL: You're voting whether to change Bitter Root to two words or not. All in favor, vote Aye; and opposed, No. Has every delegate voted?
(No response)

CHAIRMAN GRAYBILL: Close the ballot. 60 having voted to sustain Mr. Romney and 20 having voted against him, we're going to split Bitter Root. It's not a roll call, John, it's just a division. Very well, Section 11 is adopted.
Mr. McNeil was up first.

DELEGATE McNEIL: Mr. Chairman, I move to reconsider Section 1 for a style change. Mr. Chairman, if my motion to reconsider Section 1 is passed, I would change the word "among" back to "into". When I first read this, I didn't catch the distinction till we got—after—to the committee comments on page 9. I see the committee comments again use the word "into". They say, "The power of government is one whole which is divided into three parts." The language in our present Constitution, which was the intent of the committee to retain, says the power is divided into three parts, and, of course, our present Constitution reads that way. So, if my motion to reconsider is affirmed, I would move to delete the word "among" and restore the word "into" on line 9, page 5.

CHAIRMAN GRAYBILL: Mr. Harper, do you want to speak on the motion to reconsider?

DELEGATE HARPER: It seems to me that you divide power among persons, rather than into them, or among groups—

CHAIRMAN GRAYBILL: I think that's —you're on the issue, Mr. Harper.

DELEGATE HARPER: I already sneaked it in.

CHAIRMAN GRAYBILL: Well. All right, the motion is—Mr. McNeil, did you vote on the prevailing side on Section 1 when it was adopted?

DELEGATE McNEIL: Yes.

CHAIRMAN GRAYBILL: How did that happen? (Laughter)

DELEGATE McNEIL: I didn't question it until I got to their comments.

CHAIRMAN GRAYBILL: Very well, Mr. McNeil has a motion to reconsider Section 1 of the General Government Article. All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

CHAIRMAN GRAYBILL: The Ayes have it, and it'll be reconsidered.

Mr. McNeil, do you want to state your motion?

DELEGATE McNEIL: Mr. Chairman, I move to restore the language of the majority committee on line 9, page 5, of Style and Drafting's report by deleting the word "among" and returning it to the word "into".

Mr. Chairman.

CHAIRMAN GRAYBILL: Very well, he wants to change the word on line 9 back into "into" and away from "among". He wants "among" to read "into"—"divided into three distinct branches", rather than "divided among three distinct branches".

Mr. McNeil.

DELEGATE McNEIL: Mr. Chairman, I don't want there to be any doubt that there was any intention to change our separation of powers doctrine. The change which Delegate Harper referred to refers to English language construction, I guess; however, the language of the present Constitution, which it was the intent of the committee to retain, uses the word "into". That's the way it was passed by the Committee of the Whole, and I note, in explaining that change, Style and Drafting, on page 9, says: "The changes in language make plain that the power of government is one whole which is divided into three parts." For that reason, I would submit that the change would be substantive if it is not restored to the former language.

CHAIRMAN GRAYBILL: Anybody else want to discuss this?

Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, members of the committee. I think that we are eminently correct on this, and I think Mr. Harper's on target; and I would only observe that so far as the comments are concerned, that we would like you to do what we do and not what we say. I admit that we did say "into" back there, but it seems to me that "among" is grammatically and semantically correct in this case.

CHAIRMAN GRAYBILL: Mr. Etchart.

DELEGATE ETCHART: I would support Mr. McNeil on this. I really think the committee wanted the word "into" there instead of "among", and we would like to see you adopt the word "into".

CHAIRMAN GRAYBILL: Mr. Burkhardt.

DELEGATE BURKHARDT: Poor Jack Schiltz has to fight this alone, time after time. The committee wants "among".

DELEGATE BLAYLOCK: Mr. President, I also support "among". Let's have it grammatically correct.

CHAIRMAN GRAYBILL: Now, the Chair wants to observe that you're all going to be able to tell us which you prefer in about 1 minute, so if you got anything except to tell how you're going to vote, say it.

Mr. Choate.

DELEGATE CHOATE: That's just what I was going to say. I concur with our Chairman of our committee. We would prefer to have it remain as the majority report.

CHAIRMAN GRAYBILL: All right, the issue is clearcut. It's between "among" and "into".

Mr. McNeil, you may close.

DELEGATE McNEIL: Mr. Chairman, I submit that there are two committees here—one is Style and Drafting, arguing for a style change; the substantive committee has stated they want the word "into" retained. I submit that if we change that, we are treading in an area where somebody at some future time is going to argue that a substantive change was intended; and for that reason, at this point of our proceedings in style and drafting, where there is some doubt, we ought to maintain or uphold the substantive committee; and I ask for a roll call vote.

CHAIRMAN GRAYBILL: Very well. So many as shall be in favor of Mr. McNeil's motion, which is to go back to the word "into" and strike "among", so that it says "is divided into three distinct branches", vote Aye. So many as are opposed, vote No.

UNIDENTIFIED DELEGATE: (Inaudible)

CHAIRMAN GRAYBILL: No, we've already reconsidered it. This is on the issue. He moved, and the reconsideration was adopted by a voice vote. The ballot is open; and if you want to vote with Style and Drafting, you vote No; and if you want to vote with General Government, you vote Yes. Does anybody want to change their vote?

(No response)

CHAIRMAN GRAYBILL: Very well, cast the ballot.

Aasheim	Aye
Anderson, J.H.	Aye
Anderson, O.	Aye
Arbanas	Absent
Arness	Nay
Aronow	Nay
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Nay
Berthelson	Nay
Blaylock	Nay
Blend	Nay
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Nay
Burkhardt	Nay
Cain	Nay
Campbell	Absent
Cate	Absent
Champoux	Absent
Choate	Aye
Conover	Aye
Cross	Nay
Dahood	Absent
Davis	Excused
Delaney	Absent
Driscoll	Aye
Drum	Absent
Eck	Nay
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Absent
Foster	Aye
Furlong	Nay
Garlington	Absent
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Nay
Harlow	Nay
Harper	Nay
Harrington	Nay
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Nay
Kamhoot	Aye
Kelleher	Nay
Leuthold	Nay
Loendorf	Nay
Lorello	Aye
Mahoney	Absent
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Absent
McKeon	Absent
McNeil	Aye
Melvin	Aye
Monroe	Nay
Murray	Excused
Noble	Aye
Nutting	Excused
Payne	Nay
Pemberton	Aye
Rebal	Aye
Reichert	Nay
Robinson	Nay
Roeder	Nay
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Absent
Schiltz	Nay

Siderius	Nay
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Nay
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye
Mr. Chairman	Aye

CLERK HANSON: Mr. Chairman, 55 delegates voting Aye, 28 voting No.

CHAIRMAN GRAYBILL: 55 having voted Aye and 28 No, we'll go back to the word "into"—"into three distinct branches".

Mr. Schiltz, do you want to move 1 as amended?

DELEGATE SCHILTZ: No, that's what I was going to say. It would hurt me terribly to move this as amended. (Laughter)

CHAIRMAN GRAYBILL: Mr. Etchart, would you like to move 1 as amended?

DELEGATE ETCHART: Mr. Chairman, I move that when this committee does rise and report, after having had under consideration Section 1 of Style and Drafting Report Number 12, it recommend the same be adopted as amended.

CHAIRMAN GRAYBILL: All in favor of that motion, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

CHAIRMAN GRAYBILL: It's adopted as amended.

Now, Mr. Eskildsen, we'd like to rise and finally report.

DELEGATE ESKILDSEN: Mr. Chairman, I move the committee rise and finally report.

CHAIRMAN GRAYBILL: The motion is to rise and report. All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed? (No response)

CHAIRMAN GRAYBILL: So ordered.

(Proceedings revert to Convention—President Graybill in Chair)

PRESIDENT GRAYBILL: Will the clerk please read the committee report.

CLERK HANSON: "March 20, 1972. Mr. President. We, your Committee of the Whole, having had under consideration business on General Orders, recommend as follows: that the Committee rise and finally report. Signed: Graybill, Chairman."

PRESIDENT GRAYBILL: Anybody want the committee report read fully?

DELEGATES: No.

PRESIDENT GRAYBILL: Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. President, I move the adoption of the Committee of the Whole report.

PRESIDENT GRAYBILL: The motion is to adopt the Committee of the Whole report. All in favor, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No. (No response)

PRESIDENT GRAYBILL: It's adopted. Now, without objection, we'll be on Order of Business Number 5.

Mr. Eskildsen.

DELEGATE ESKILDSEN: I think we should move them to Order of Business Number 5 so we can vote on them—

PRESIDENT GRAYBILL: All right.

DELEGATE ESKILDSEN: I think we should be on Order of Business Number 7.

PRESIDENT GRAYBILL: All right, you want to move—all right, we'll be on Order of Business Number 7, then.

DELEGATE ESKILDSEN: I move that we place General Government, Number 12, to

Order of Business Number 5 and—

PRESIDENT GRAYBILL: Local Government Number 11.

DELEGATE ESKILDSEN: —Local Government Number 11 to Order of Business Number 5.

PRESIDENT GRAYBILL: All in favor of that motion, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.
(No response)

PRESIDENT GRAYBILL: So ordered.

DELEGATE ESKILDSEN: Mr. President.

PRESIDENT GRAYBILL: Mr. Eskildsen.

DELEGATE ESKILDSEN: Without objection, may we be on Order of Business Number 5?

PRESIDENT GRAYBILL: Without objection, we'll be on Order of Business Number 5. On Order of Business Number 5, we'll take up Local Government Number 9 first. Members of the Convention, if you'll take your Style and Drafting report and, instead of turning to page 5, if you'll turn to page 1, it will be easy to follow along on the clean text; and where there are changes, I will call it to your attention. There happen to be no changes at all on the Local Government Article. Very well, we're on Order of Business Number 5, Final Adoption.

Mr. Harbaugh, for what purpose do you rise?

DELEGATE HARBAUGH: Well, a question or a point of order. Don't we have to suspend rules to be on final consideration?

PRESIDENT GRAYBILL: No, final consideration has no time limit, so the matter having been put on it, we can go immediately into it. Ordinarily we would reprint it, but to save us the reprinting and since we have clean copy—well, to save us the reprinting and to get it out of the way so that Style and Drafting can continue now with putting together the whole Constitution, why, we'll go ahead. It's only on Order of Business Number 10 that we have the time limits. Very well, will the clerk please read the title and Section 1 of the Local Government Article, Number 11.

CLERK HANSON: "Montana Constitutional Convention, 1971-1972; Local Government Number 11. Be it proposed by Local Government Committee that there be a new article on Local Government to read as follows: Article, Local Government. Section 1—Definition." Mr. President.

PRESIDENT GRAYBILL: Now, this time we vote by voting machine. We read you the section only, and then you have to decide. All right, the vote is on Section 1—Definition, of the Local Government Article, Article XI—or Proposal Number 11. So many as are in favor of Section 1, vote Aye on the voting machines; opposed, vote No. Have all the delegates voted?

UNIDENTIFIED DELEGATE: No.

PRESIDENT GRAYBILL: Any delegate wish to change his vote?
(No response)

PRESIDENT GRAYBILL: Very well, take the ballot.

Aasheim	Absent
Anderson, J.H.	Aye
Anderson, O.	Aye
Arbanas	Absent
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Absent
Cate	Aye
Champoux	Absent
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Absent
Davis	Excused
Delaney	Absent

Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Absent
Foster	Aye
Furlong	Aye
Garlington	Absent
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Absent
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Absent
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Excused
Noble	Aye
Nutting	Excused
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Absent
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Absent
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. President, 84 delegates voting Aye, no delegates voting No.

PRESIDENT GRAYBILL: Very well, Section 1 is adopted. Section 2, Mr. Clerk.

CLERK HANSON: "Section 2. Counties." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 2—Counties, vote Aye on the voting machines; opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, take the vote.

Aasheim	Absent
Anderson, J.H.	Aye
Anderson, O.	Aye
Arbanas	Absent
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Absent
Bowman	Nay
Brazier	Aye
Brown	Aye
Bugbee	Aye

Burkhardt	Aye
Cain	Aye
Campbell	Absent
Cate	Aye
Champoux	Absent
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Excused
Delaney	Absent
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Absent
Foster	Aye
Furlong	Aye
Garlington	Absent
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Absent
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Absent
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Absent
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Absent
Murray	Excused
Noble	Aye
Nutting	Excused
Payne	Nay
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Absent
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Absent
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Absent
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. President, 79 voting Aye, 2 delegates voting No.

PRESIDENT GRAYBILL: Very well, 79 voting Aye, 2 No, that Section 2 is adopted. Section 3.

CLERK HANSON: "Section 3. Forms of Government"; containing two subsections. Mr. President.

PRESIDENT GRAYBILL: Section 3 has two subsections. All in favor, vote Aye; opposed, No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, cast the ballot.

Aasheim	Absent
Anderson, J.H.	Aye
Anderson, O.	Aye
Arbanas	Absent
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye

Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Absent
Campbell	Absent
Cate	Aye
Champoux	Absent
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Excused
Delaney	Absent
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Absent
Foster	Aye
Furlong	Aye
Garlington	Absent
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Absent
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Absent
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Excused
Noble	Aye
Nutting	Excused
Payne	Nay
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Absent
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Nay
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Absent
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Absent
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. President, 81 delegates voting Aye, 2 voting No.

PRESIDENT GRAYBILL: Very well, Section 3 is adopted. Section 4, containing two subsections.

CLERK HANSON: "Section 4. General Powers." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 4 and two subsections, vote Aye; opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Cast the ballot.

Aasheim	Absent
Anderson, J.H.	Aye
Anderson, O.	Aye
Arbanas	Absent
Arness	Absent
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Absent
Belcher	Aye
Berg	Nay
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Nay
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Absent
Cate	Aye
Champoux	Absent
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Excused
Delaney	Absent
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Absent
Foster	Aye
Furlong	Aye
Garlington	Absent
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Absent
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Absent
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Absent
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Excused
Noble	Aye
Nutting	Excused
Payne	Nay
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Nay
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Absent
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Nay
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Absent
Toole	Nay
Van Buskirk	Aye
Vermillion	Aye
Wagner	Absent
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. President, 75 delegates voting Aye, 6 voting No.

PRESIDENT GRAYBILL: Very well. Section 4 is adopted. Section 5.

CLERK HANSON: "Section 5. Self-government charters"; containing three subsections. Mr. President.

PRESIDENT GRAYBILL: Section 5. So many as are in favor of Section 5 and three subsections, vote Aye; and so many as are opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Cast the ballot.

Aasheim	Absent
Anderson, J.H.	Aye
Anderson, O.	Aye
Arbanas	Absent
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Absent
Cate	Aye
Champoux	Absent
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Excused
Delaney	Absent
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Absent
Foster	Aye
Furlong	Aye
Garlington	Absent
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Absent
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Absent
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Excused
Noble	Aye
Nutting	Excused
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Nay
Rygg	Aye
Scanlin	Aye
Schiltz	Absent
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Absent

Ward	Aye
Warden	Aye
Wilson	Absent
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. President, 83 delegates voting Aye, 1 voting No.

PRESIDENT GRAYBILL: 83 delegates voting Aye and one voting No, Section 5 is adopted. Section 6.

CLERK HANSON: "Section 6. Self-government powers." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 6, vote Aye; so many as shall be opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, cast the ballot.

Aasheim	Absent
Anderson, J.H.	Aye
Anderson, O.	Aye
Arbanas	Absent
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Absent
Cate	Aye
Champoux	Absent
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Excused
Delaney	Absent
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Absent
Foster	Aye
Furlong	Aye
Garlington	Absent
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Absent
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Absent
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Excused
Noble	Aye
Nutting	Excused
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Absent

Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Absent
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. President, 85 delegates voting Aye, no delegates voting No.

PRESIDENT GRAYBILL: Very well, Section 6 is adopted. Section 7.

CLERK HANSON: "Section 7. Intergovernmental cooperation"; containing two subsections. Mr. Chairman.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 7 and its two subdivisions, vote Aye; so many as opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Cast the ballot.

Aasheim	Absent
Anderson, J.H.	Aye
Anderson, O.	Aye
Arbanas	Absent
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Absent
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Absent
Cate	Aye
Champoux	Absent
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Excused
Delaney	Absent
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Absent
Foster	Aye
Furlong	Aye
Garlington	Absent
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Nay
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Absent
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Excused
Noble	Aye

Nutting	Excused
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Absent
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Absent
Ward	Aye
Warden	Absent
Wilson	Absent
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. President, 83 delegates voting Aye, 1 voting No.

PRESIDENT GRAYBILL: Now, Mr. Clerk, you lost me. Tell me what the vote is.

CLERK HANSON: 83 delegates voting Aye, 1 voting No.

PRESIDENT GRAYBILL: Very well. Section 7 is adopted. Section 8.

CLERK HANSON: "Section 8. Initiative and referendum." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 8, vote Aye; so many as shall be opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Cast the ballot

Aasheim	Absent
Anderson, J.H.	Aye
Anderson, O.	Aye
Arbanas	Absent
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Absent
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Absent
Cate	Aye
Champoux	Absent
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Excused
Delaney	Absent
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Absent
Foster	Aye
Furlong	Aye
Garlington	Absent
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Absent
Joyce	Aye

Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Absent
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Excused
Noble	Aye
Nutting	Excused
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Nay
Rygg	Aye
Scanlin	Aye
Schiltz	Absent
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Absent
Wilson	Aye
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. President, 84 delegates voting Aye, 1 voting No.

PRESIDENT GRAYBILL: 84 having voted Aye, Section 8 is adopted. Section 9.

CLERK HANSON: "Section 9. Voter review of local government"; containing two subsections. Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 9, vote Aye; and so many as shall be opposed, vote No. Have all the delegates voted?

(No response)

PRESIDENT GRAYBILL: Any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, take the ballot.

Aasheim	Absent
Anderson, J.H.	Absent
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Absent
Belcher	Nay
Berg	Nay
Berthelson	Aye
Blaylock	Aye
Blend	Absent
Bowman	Aye
Brazier	Aye
Brown	Absent
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Absent
Cate	Aye
Champoux	Absent
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Excused
Delaney	Absent
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Absent
Foster	Aye
Furlong	Aye
Garlington	Absent
Gysler	Aye
Habedank	Aye

Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Nay
Jacobsen	Aye
James	Aye
Johnson	Nay
Joyce	Aye
Kamhoot	Nay
Kelleher	Aye
Leuthold	Nay
Loendorf	Aye
Lorello	Aye
Mahoney	Absent
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Excused
Noble	Aye
Nutting	Excused
Payne	Aye
Pemberton	Absent
Rebal	Aye
Reichert	Absent
Robinson	Absent
Roeder	Aye
Rollins	Aye
Romney	Nay
Rygg	Nay
Scanlin	Aye
Schiltz	Absent
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Nay
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. President, 73 delegates voting Aye, 9 voting No.

PRESIDENT GRAYBILL: 73 delegates having voted Aye and 9 voting No, Section 9 is adopted and we're finished adopting Local Government, Number 11. Now, if you'll turn to General Government, Number 12, and again turn to page 1; we'll follow through on page 1; and there are some changes, and the Chair will call them to your attention as we go through. Will the clerk please read the title and Section 1 of the General Government Article.

CLERK HANSON: "Montana Constitutional Convention, 1971-1972, General Government Report Number 12. Be it proposed by the General Government Constitutional Amendment Committee that there be a new article on General Government to read as follows: Article, General Government. Section 1. Separation of powers, as amended." Mr. President.

PRESIDENT GRAYBILL: Very well. So many as shall be in favor of Section 1 of the General Government Article on separation of powers, please vote Aye; so many as are opposed, vote No. Now, Section 1 was amended from "among" to "into"; and if you're following on page 1, you should, on line 9, change the words "divided into three distinct branches"; so have that in mind. All in favor of Section 1, vote Aye; opposed, No. Have all the delegates voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, take the ballot.

Mr. Habedank, for what purpose do you rise?

DELEGATE HABEDANK: I pushed the green button, but it didn't show. I wish to show I would have voted Aye.

PRESIDENT GRAYBILL: You wish to show you voted Aye?

DELEGATE HABEDANK: Yes.

PRESIDENT GRAYBILL: Check Mr. Habedank.

CLERK HANSON: Mr. President, Mr. Habedank voting Aye.

Aasheim	Aye
Anderson, J.H.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Nay
Berthelson	Nay
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Absent
Burkhardt	Aye
Cain	Aye
Campbell	Absent
Cate	Aye
Champoux	Absent
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Excused
Delaney	Absent
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Absent
Foster	Aye
Furlong	Aye
Garlington	Absent
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Nay
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Absent
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Nay
Murray	Excused
Noble	Aye
Nutting	Excused
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Nay
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: 85 delegates voting Aye, 5 voting No.

PRESIDENT GRAYBILL: Very well. Section 1 is adopted. Section 2.

CLERK HANSON: "Section 2. Continuity of government Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 2, vote Aye on the voting machines; so many as shall be opposed, vote No. Have all the delegates voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, take the ballot

Aasheim	Aye
Anderson, J.H.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Absent
Cate	Absent
Champoux	Absent
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Excused
Delaney	Absent
Driscoll	Nay
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Absent
Foster	Aye
Furlong	Aye
Garlington	Absent
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Nay
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Absent
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Nay
Murray	Excused
Noble	Aye
Nutting	Excused
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye

Warden	Absent
Wilson	Aye
Woodmansey	Aye
Mr. President	Aye

PRESIDENT GRAYBILL: Very well; announce the vote, please.

CLERK HANSON: Mr. President—

PRESIDENT GRAYBILL: Mr. James, for what purpose do you rise?

DELEGATE JAMES: Mr. Chairman, spring is here. I vote Aye.

PRESIDENT GRAYBILL: Mr. James wishes to vote Aye on Section 2.

CLERK HANSON: Mr. President, James voting Aye; 86 delegates voting Aye, 3 voting No.

PRESIDENT GRAYBILL: Very well, Section 2 is adopted. Section 3.

CLERK HANSON: "Section 3. Oath of office." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 3, vote Aye on the voting machines; so many as are opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Please cast the ballot.

Aasheim	Aye
Anderson, J.H.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Absent
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Absent
Campbell	Absent
Cate	Aye
Champoux	Absent
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Excused
Delaney	Absent
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Absent
Foster	Aye
Furlong	Aye
Garlington	Absent
Gysler	Nay
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Absent
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Excused
Noble	Aye
Nutting	Excused
Payne	Aye

Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Nay
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. President, 87 delegates voting Aye, 2 voting No.

PRESIDENT GRAYBILL: Very well, Section 3 is adopted. Now, Section 4, sub. 1, has an amendment. On Section 4, page 2, you want to put a period after the word "laws" on line 6 and strike "prohibited by this Constitution". And then, in subsection 2, you want to strike the word "each" and put a capital "I" on "Initiative" and put an "s" on "petitions", and on line 2, you've got to strike the word—or on line 9, you've got to strike the word "proposal", which is wrong in this text, and it's got to say "of the proposed measure," and then strike everything else over to—strike everything but the "shall"—"proposed measure shall be signed by at least 5 percent of the qualified electors"—and that's all right. Then, down in the bottom, it should—strike the "A" on line 13, and make it a capital "P" for "Petitions", with an "s" on it, and strike the—after the word "which"—"at which the measure"—strike the "it" on line 15. Mr. Schiltz, when I reread this, I wish you'd check your text, because your text was wrong here. It now reads "Subsection 2. Initiative petitions must contain the full text of the proposed measure, shall be signed by at least 5 percent of the qualified electors in each of at least one-third of the legislative representative districts, and the total number of signers must be at least 5 percent of the total qualified electors of the state. Petitions shall be filed with the Secretary of State at least 3 months prior to the election at which the measure will be voted upon." I think that's correct. Very well, that—and then, subsection 3 has no amendments in it. So we're about to vote finally on Section 4, subs. 1, 2 and 3; and we have made the corrections on page 2 for you, if you followed us. They're the corrections we just voted on in Style and Drafting in the Committee of the Whole. So many as shall be in favor of Section 4 as we read it here with the amendments in it, vote Aye; and so many as are opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, cast the ballot.

Aasheim	Aye
Anderson, J.H.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Absent
Cate	Aye
Champoux	Absent
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Excused
Delaney	Absent

Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Absent
Foster	Aye
Furlong	Aye
Garlington	Absent
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Absent
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Excused
Noble	Aye
Nutting	Excused
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. President, 91 delegates voting Aye, no delegates voting No.

PRESIDENT GRAYBILL: Very well, Section 4 is adopted 91 to 0. Section 5, Mr. Clerk.

CLERK HANSON: "Section 5. Referendum"; containing two subsections and subsection 2 as amended from Committee of the Whole.

PRESIDENT GRAYBILL: Very well, subsection 2, on page 3, line 1, put an "s" on "petitions". That's all there is to it. Page 3, line 1—an "s" on "petitions", making the word plural. Now, so many as shall be in favor of Section 5, as amended, please vote Aye on the voting machines; opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Cast the ballot.

Aasheim	Aye
Anderson, J.H.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye

Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Absent
Cate	Absent
Champoux	Absent
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Excused
Delaney	Absent
Driscoll	Aye
Drum	Aye
Eck	Absent
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Absent
Foster	Aye
Furlong	Aye
Garlington	Absent
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Absent
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Absent
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Excused
Noble	Aye
Nutting	Excused
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Absent
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Absent
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. President, 86 delegates voting Aye, no delegates voting No.

PRESIDENT GRAYBILL: Very well, Section 5 is adopted. Section 6.

CLERK HANSON: "Section 6. Elections"; as amended in Committee of the Whole. Mr. President.

PRESIDENT GRAYBILL: Section 6 was amended on page 3, line 8; after the word "referendum", you want to put in the word "measures"—"initiative and referendum measures at the general election". Now, including this amendment, which we made in Committee of the Whole a few minutes ago, so many as shall be in favor of Section 6, vote Aye; so many as shall be opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Cast the ballot.

Aasheim	Aye
Anderson, J.H.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Absent
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Absent
Brazier	Aye
Brown	Absent
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Absent
Cate	Aye
Champoux	Absent
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Excused
Delaney	Absent
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Absent
Foster	Aye
Furlong	Aye
Garlington	Absent
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Absent
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Excused
Noble	Aye
Nutting	Excused
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Absent
Siderius	Absent
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Absent
Mr. President	Aye

CLERK HANSON: Mr. President, 85 delegates voting Aye, no delegates voting No.

PRESIDENT GRAYBILL: Section 6 is adopted. Section 7.

CLERK HANSON: "Section 7. Number of electors"; as amended in Committee of the Whole. Mr. President.

PRESIDENT GRAYBILL: On line 13, page 3, after the word "for", you should put in the words "the office of"—so it'll be "the number of votes cast for the office of Governor". This amendment was made in Committee of the Whole a few minutes ago. Including that amendment, all those in favor of Section 7 vote Aye; and those opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: I'll cast the ballot, then.

Aasheim	Aye
Anderson, J.H.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Absent
Belcher	Absent
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Absent
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Excused
Delaney	Absent
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Absent
Foster	Aye
Furlong	Aye
Garlington	Absent
Gysler	Absent
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Absent
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Excused
Noble	Aye
Nutting	Excused
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Absent
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye

Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. President, 88 delegates voting Aye, no delegates voting No.

PRESIDENT GRAYBILL: Very well, Section 7 is adopted. Section 8.

CLERK HANSON: "Section 8. Recall." Mr. President.

PRESIDENT GRAYBILL: No. Section 8. Prohibition.

CLERK HANSON: Oh. "Section 8. Prohibition." Excuse me.

PRESIDENT GRAYBILL: Section 8 is Prohibition, lines 15 to 17, page 3. So many as shall be in favor of Section 8, vote Aye; so many as opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, I'm going to close the ballot.

Aasheim	Aye
Anderson, J.H.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Absent
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Excused
Delaney	Absent
Driscoll	Nay
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Absent
Foster	Aye
Furlong	Aye
Garlington	Absent
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Absent
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Absent
Murray	Excused
Noble	Aye
Nutting	Excused
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye

Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Absent
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. President, 89 delegates voting Aye, 1 voting No.

PRESIDENT GRAYBILL: Very well, 89 having voted Aye, Section 8 is adopted. Section 9.

CLERK HANSON: "Section 9. Recall." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 9, vote Aye; opposed, vote No. All right, has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Delegates understand they're about to change the rule here. Anybody want to change their vote?

(No response)

PRESIDENT GRAYBILL: Very well, cast the ballot.

Aasheim	Nay
Anderson, J.H.	Aye
Anderson, O.	Aye
Arbanas	Nay
Arness	Aye
Aronow	Nay
Artz	Nay
Ask	Nay
Babcock	Nay
Barnard	Nay
Bates	Nay
Belcher	Nay
Berg	Nay
Berthelson	Nay
Blaylock	Nay
Blend	Aye
Bowman	Nay
Brazier	Aye
Brown	Nay
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Absent
Cate	Nay
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Nay
Davis	Excused
Delaney	Absent
Driscoll	Nay
Drum	Nay
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Nay
Felt	Absent
Foster	Nay
Furlong	Aye
Garlington	Absent
Gysler	Aye
Habedank	Nay
Hanson, R.S.	Nay
Hanson, R.	Nay
Harbaugh	Nay
Harlow	Aye
Harper	Nay
Harrington	Nay
Heliker	Aye
Holland	Nay
Jacobsen	Aye
James	Aye
Johnson	Nay
Joyce	Nay
Kamhoot	Nay
Kelleher	Nay
Leuthold	Aye
Loendorf	Nay
Lorello	Aye
Mahoney	Absent
Mansfield	Nay
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Nay
McNeil	Nay

Melvin	Aye
Monroe	Nay
Murray	Excused
Noble	Nay
Nutting	Excused
Payne	Nay
Pemberton	Nay
Rebal	Nay
Reichert	Nay
Robinson	Aye
Roeder	Aye
Rollins	Nay
Romney	Nay
Rygg	Nay
Scanlin	Aye
Schiltz	Aye
Siderius	Nay
Simon	Aye
Skari	Nay
Sparks	Nay
Speer	Aye
Studer	Nay
Sullivan	Nay
Swanberg	Nay
Toole	Aye
Van Buskirk	Nay
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Nay
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. President, 38 voting Aye, 54 voting No.

PRESIDENT GRAYBILL: By your vote of 54 having voted No, you have deleted Section 9, on Recall, from the General Government Article; and that means there is no recall in the—no constitutional recall in the state if we do this, so I guess we've done it. Very well, Section 10.

CLERK HANSON: "Section 10. Gambling." Mr. President.

PRESIDENT GRAYBILL: The Chair feels that Section 10, of which there are two, is really a ballot alternative. And the Chair feels you should vote on both of them at once. Does anyone disagree with the Chair on that? In other words, you can't—we've checked them as to style and drafting. They are inconsistent; and the point is, they're to be put on the ballot as an alternative. I see no point in taking a separate ballot on final adoption except as a ballot alternative. Very well. Everyone understanding that you're voting on the ballot alternative and the nature of it and the language of it, so many as shall be in favor of the two Sections 10 as the ballot alternative, vote Aye; and so many as shall be opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Please cast the ballot.

Aasheim	Aye
Anderson, J.H.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Nay
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Nay
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Absent
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Excused
Delaney	Absent
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Absent
Foster	Aye
Furlong	Aye
Garlington	Absent

Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Nay
Harlow	Nay
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Nay
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Nay
Mahoney	Absent
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Nay
McNeil	Aye
Melvin	Aye
Monroe	Nay
Murray	Excused
Noble	Aye
Nutting	Excused
Payne	Nay
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Nay
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Nay
Warden	Aye
Wilson	Aye
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. President, 81 delegates voting Aye, 11 voting No.

CLERK HANSON: 81 delegates having voted Aye, the ballot alternative on gambling is adopted. Section 11.

CLERK HANSON: "Section 11. Boundaries." Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section 11, on Boundaries, vote Aye; so many as shall be opposed, vote No. Members of the body, the Chair just struck the closed vote before he wanted to. Does anyone here wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, cast the ballot.

Aasheim	Nay
Anderson, J.H.	Aye
Anderson, O.	Nay
Arbanas	Nay
Arness	Nay
Aronow	Aye
Artz	Aye
Ask	Nay
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Nay
Berthelson	Aye
Blaylock	Nay
Blend	Nay
Bowman	Nay
Brazier	Nay
Brown	Nay
Bugbee	Nay
Burkhardt	Nay
Cain	Aye
Campbell	Absent
Cate	Nay
Champoux	Nay
Choate	Nay
Conover	Nay
Cross	Nay
Dahood	Nay
Davis	Excused
Delaney	Absent

Driscoll	Aye
Drum	Nay
Eck	Nay
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Absent
Foster	Nay
Furlong	Nay
Garlington	Absent
Gysler	Nay
Habedank	Aye
Hanson, R.S.	Absent
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Nay
Harrington	Aye
Heliker	Aye
Holland	Nay
Jacobsen	Absent
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Nay
Leuthold	Nay
Loendorf	Nay
Lorello	Aye
Mahoney	Absent
Mansfield	Nay
Martin	Nay
McCarvel	Nay
McDonough	Nay
McKeon	Aye
McNeil	Nay
Melvin	Nay
Monroe	Nay
Murray	Excused
Noble	Nay
Nutting	Excused
Payne	Nay
Pemberton	Nay
Rebal	Aye
Reichert	Nay
Robinson	Nay
Roeder	Aye
Rollins	Nay
Romney	Aye
Rygg	Nay
Scanlin	Nay
Schiltz	Nay
Siderius	Nay
Simon	Nay
Skari	Nay
Sparks	Nay
Speer	Nay
Studer	Nay
Sullivan	Aye
Swanberg	Nay
Toole	Nay
Van Buskirk	Absent
Vermillion	Nay
Wagner	Aye
Ward	Nay
Warden	Nay
Wilson	Aye
Woodmansey	Nay
Mr. President	Aye

CLERK HANSON: Mr. President, 32 delegates voting Aye, 57 voting No.

PRESIDENT GRAYBILL: 57 delegates having voted No and 32 having voted Aye, the boundaries are stricken from the Constitution. Having completed your balloting on Local Government, Article XI and—or Proposal Number 11—and General Government Proposal Number 12, the Chair will refer these to Style and Drafting for inclusion in the final Constitution—

But I'll hear Mr. Habedank first.

DELEGATE HABEDANK: Mr. President, I merely desire to ask a question. I assume that Style and Drafting can change "10" to "9" and that we won't end up with a gap because of what we've done.

PRESIDENT GRAYBILL: It would be the Chair's understanding that they could. There are a number of style changes that they have to make in terms of the final article, in terms of putting numbers on them and things of that nature. The articles are not all numbered, so I'm sure that they could make "10", "9". Is there any other question?

(No response)

PRESIDENT GRAYBILL: We still have to adopt the Constitution as a whole. Very well, the Chair will assign these to Style and Drafting for that purpose. Now, ladies and gentlemen, without objection I think we'll be on Order of Business Number 11, Announcements. First of all, the Chair would like to say that, unless I am misinformed, our work is done, unless we make some changes, until the Style and Drafting Committee makes its ballot proposal, which they tell me will be ready. Then the ballot includes the other two parts, the calendar and the—well, I never can remember that word, but the part where we tell what statutes should be amended, and I understand that will be ready for debate Wednesday morning. It will not be printed and ready for debate tomorrow. However, the Chair feels that something may come up tomorrow; and the Chair does not like to recess you over till Wednesday, because we wouldn't get paid then; and I think something may come up and many of us will be necessary, so the Chair intends, at the moment, to recess until 9:00 tomorrow. At 9:00 tomorrow, we may have a short meeting unless something comes up that someone wants to bring up. Now, the Chair would like you to be apprised that if you have something, please let us know and let's bring it up at 9:00 tomorrow. Let's not bring it up at 5:00 Wednesday afternoon after we've finished the other debate, because at that point, it's going to be too late to make the necessary and appropriate changes. As I think we demonstrated today, it's not always easy to get everything straightened out after we make an amendment in these things, so we will recess in a few minutes till 9 o'clock tomorrow. Secondly, the Chair—I don't know whether the notice has been put on your desks or not, but the Chair understands that there is to be a no-host dinner at the Montana Club on Thursday night—the same arrangement as before, $5, including two drinks, and the drinking will be on a different floor than the dinner this time. I believe it's the intent of the special committee that out-of-town guests—the out-of-town guests that we're inviting, and we are inviting some out-of-town guests to the Friday morning final ceremonies—that they will be invited guests to that meeting, but otherwise it would be delegates. Then you should have in mind that we—I haven't gotten a final time from Mr. Garlington, but it's my understanding that Friday morning we will have the final ceremony, including signing and so forth, which will doubtless take most of the morning, but we should be done and be able to adjourn some time after that, at the end of that ceremony on Friday, so you'd probably have the afternoon to leave town if you wanted to. Style and Drafting wants to be called into session immediately upon adjournment this afternoon. Now, with those preliminary announcements, are there other announcements from the floor?

Mr. Gysler.

DELEGATE GYSLER: Mr. Chairman, Natural Resources, over here in the corner, right after adjournment, for the purpose of signing each other's committee pictures.

PRESIDENT GRAYBILL: Mrs. Warden.

DELEGATE WARDEN: Mr. President, the members of the old Public Information Committee, the one that is being superseded by the Voter Education, will have a no-host dinner tonight at the Colonial at 6:30.

PRESIDENT GRAYBILL: Dinner for Public Information Committee, tonight at 6:30 at the Colonial.

Mr. Blaylock.

DELEGATE BLAYLOCK: Mr. Chairman, I have an inquiry to make of the Chair in regard to your report on the budget the other day. I think you made the statement—and you correct me if I'm wrong—that we have been paid for two round trips to the Convention and that we would not be paid for the third one.

PRESIDENT GRAYBILL: I'm glad you mentioned that, not so much to clear it up as to call a meeting of the budget subcommittee, and actually, the whole administration committee should be available on recess tomorow, after our 9 o'clock session. That's right; we've only had two round trips. However, that's all that we've taken—that we've had to take. I'm aware that many of us took a lot more. The Rules Committee met with me on this matter and has recommended to the budget subcommittee and then to the Administration Committee that, because the Enabling Act specifies that we're to get three, that we pay three. Now, that's going to be taken up by the Administration Committee tomorrow, and the Budget Committee; let's say that it's going to be recommended that we pay three, but I don't know what the committee will do. And then the committee will make a report to this body. Very well, I think we're ready to stand in recess until tomorrow morning at 9 o'clock.

Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. President, I move we adjourn until 9:00 a.m., March 21, 1972.

PRESIDENT GRAYBILL: The motion is to recess until 9:00 a.m., tomorrow morning. All in favor, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No. (No response)

PRESIDENT GRAYBILL: So ordered.

(Convention adjourned at 3:50 p.m.)

March 21, 1972
9:30 a.m.

Fifty-First Day

Convention Hall
Helena, Montana

PRESIDENT GRAYBILL: The Convention will be in session. The Convention will come to order. I'm sorry that we are a little late this morning, but as usual, we were working on the Convention's business. And if you'll all stand, Reverend Burkhardt will lead us in an invocation this morning.

DELEGATE BURKHARDT: Let us pray. We pause, O God, toward the end of our work, giving deep thanks for the gift of life itself, for the grandeur and quiet beauty of our beloved Montana. We pray that somehow the work we have done here may offer promise to those who come after us, and that we may always deeply appreciate the part that every person has played in this task. In the spirit of our Lord, Amen.

PRESIDENT GRAYBILL: Very well, we'll take attendance by voting Aye on the voting machines. Those who vote No are not present—at least mentally. (Laughter)

CLERK HANSON: Mr. President, may Delegates Campbell and Toole be excused this day?

PRESIDENT GRAYBILL: Campbell and Toole are excused.

CLERK HANSON: Delegate Conover, Delegate Cross, Delegate Dahood, Delegate Davis, Delegate Champoux. Delegate Davis.

PRESIDENT GRAYBILL: Very well, take the attendance.

CLERK HANSON: Delegate Warden.

Aasheim	Present
Anderson, J.H.	Present
Anderson, O.	Present
Arbanas	Present
Arness	Present
Aronow	Present
Artz	Present
Ask	Present
Babcock	Present
Barnard	Present
Bates	Present
Belcher	Present
Berg	Present
Berthelson	Present
Blaylock	Present
Blend	Present
Bowman	Present
Brazier	Present
Brown	Present
Bugbee	Present
Burkhardt	Present
Cain	Present
Campbell	Excused
Cate	Present
Champoux	Present
Choate	Present
Conover	Present
Cross	Present
Dahood	Present
Davis	Absent
Delaney	Present
Driscoll	Present
Drum	Present
Eck	Present
Erdmann	Present
Eskildsen	Present
Etchart	Present
Felt	Present
Foster	Present
Furlong	Present
Garlington	Present
Gysler	Present
Habedank	Present
Hanson, R.S.	Present
Hanson, R.	Present
Harbaugh	Present
Harlow	Present
Harper	Present
Harrington	Present
Heliker	Present
Holland	Present
Jacobsen	Present
James	Present
Johnson	Present
Joyce	Present
Kamhoot	Present
Kelleher	Present
Leuthold	Present
Loendorf	Present
Lorello	Present
Mahoney	Present
Mansfield	Present
Martin	Present
McCarvel	Present
McDonough	Present
McKeon	Present
McNeil	Present
Melvin	Present
Monroe	Present

Murray	Present
Noble	Present
Nutting	Present
Payne	Present
Pemberton	Present
Rebal	Present
Reichert	Present
Robinson	Present
Roeder	Present
Rollins	Present
Romney	Present
Rygg	Present
Scanlin	Present
Schiltz	Present
Siderius	Present
Simon	Present
Skari	Present
Sparks	Present
Speer	Present
Studer	Present
Sullivan	Present
Swanberg	Present
Toole	Excused
Van Buskirk	Present
Vermillion	Present
Wagner	Present
Ward	Present
Warden	Absent
Wilson	Present
Woodmansey	Present
Mr. President	Present

CLERK HANSON: Mr. Chairman, 96 delegates present, 2 excused, and 2 absent.

PRESIDENT GRAYBILL: Very well, the journal may so show. Order of Business Number 1, Reports of Standing Committees.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number 2, Reports of Select Committees.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number 3, Communications.

CLERK HANSON: "Helena, Montana 59601, March 21, 1972. Honorable Leo Graybill, Jr., President, Montana Constitutional Convention, Capitol, Helena, Montana. Dear Mr. President: In accordance with the provisions of Section 15 (2), Extraordinary Senate Bill No. 6, Chapter EX-1, Laws of Montana 1971, the licenses of the following lobbyists have been suspended, as of March 21, 1972, for failure to file statements of expense within the period specified by law: license No. 3-72, Henry E. Lohr; 28-72, David L. Jackson; 58-72, Roy G. Crosby; 59-72, D. H. Siewert; 79-72, C. S. Robinson. The suspension of Gerald McCurdy, license No. 39-72, reported to you on February 22, 1972, is still in effect. Sincerely yours, Frank Murray, Secretary of State."

PRESIDENT GRAYBILL: Are there other communications?

CLERK HANSON: None, sir.

PRESIDENT GRAYBILL: Very well. Order of Business Number 4, Introduction and Reference of Delegate Proposals.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number 5, Final Consideration.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number 6, Adoption.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number 7, Motions and Resolutions.

CLERK HANSON: "Montana Constitutional Convention, 1971-1972, Resolution Number 16, introduced March 21, 1972: A resolution to the Montana Constitutional Convention describing the presentation of the ballot." Do you want it read?

PRESIDENT GRAYBILL: Yes, read it in its entirety, please.

CLERK HANSON: "Whereas, all articles will be presented separately for a Yes or No vote; Whereas, any alternate proposals will be presented separately for a Yes or No vote; Whereas, in case any article fails to pass the election, then the provision under that department of the 1889 Constitution will be in effect, except as where it may conflict with the intent of any section of the adopted articles of the new Constitution which, thereby, will take precedence over the 1889 Constitutional provision. Now, therefore, be it resolved by the Constitutional Convention, State of Montana: The ballot will be drawn in such manner that all articles will be presented separately for a Yes or No vote; All alternative proposals will be presented separately for a Yes or No vote. Introduced by Torrey Johnson." Mr. President.

PRESIDENT GRAYBILL: Very well. Mr. Johnson, your resolution is being referred to Style and Drafting, since it deals with their problems.

Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, Mr. Johnson's resolution was taken into consideration last night by Style and Drafting and, by unanimous vote of the committee, rejected. Our minutes reflect the reasons therefor. Sufficient to say that we thought it was unduly confusing, that it came too late for any more serious consideration, and that it would probably be quite expensive.

PRESIDENT GRAYBILL: It's the understanding of the Chair that the point of Mr. Johnson's resolution was that we consider section by section on the ballot the Constitution—or article by article, not section by section—the new Constitution. In other words, vote on each article, article by article, on the ballot. And apparently Style and Drafting did have access to the resolution and did consider it.

Mr. Johnson, do you care to discuss it at this time, since my reference to that committee obviously is not going to be effective. I'd be happy to let you at least discuss it. If any problem arises, I might have to refer it to Rules, but I certainly want you to have a chance to discuss it.

DELEGATE JOHNSON: Thank you, Mr. President. Ladies and gentlemen, it seems like I'm always a day late and a dollar short—maybe two dollars in this case, if it's going to be expensive to handle. But, however,—and I am sorry that I didn't get this in 2, 3 weeks ago. I didn't believe it would be necessary. I thought that the ballot proposition would come up and we'd all have a chance to discuss it; and so, I guess I was a little naive in that department. I believe that if we present this ballot to the voters of Montana, article by article, that it would stand a much better chance of being passed, and I think they would take more of an interest in it. I've heard this kind of talk ever since last fall, and the people would like to have it article by article. Maybe it isn't quite as efficient as presenting it all in one block, but there's one thing sure: if there's one or two articles in the area that are very controversial throughout the whole state, they might stand to defeat the whole proposition. And I would like to see the voters have a chance to do just exactly this: if they wanted to, vote out one of these particular articles; and if you understood, as it was read, my reasoning is that if one of the articles is defeated, that the old section in our present Constitution would take precedence, and then if there's a conflict overlapping intent—or conflict in meaning with any of the sections in the new articles, which you all are aware there are some repetitious sections, repetitious insertions in separate articles that might overlap in meaning—and so, there my intent is that the adopted new proposal would take precedence over our present Constitution article in the area which we are—now, I suppose I've confused you more—but, in any event, I do not see a great problem with this. I think it could be worked out very handily, and I'd feel a great deal better about the whole situation, myself; I know that. I don't—this is an area where I think that we stand the best chance of putting this new Constitution across, and I hate to see it lose. There is a chance it'll lose, you know. You have to admit this, and after all the work that was put on it—there's a little bit of every one of us—or maybe quite a little bit of every one of us in this new proposed Constitution, and I'm sure you all feel as strongly as I do about it—the waste of time and the waste of money—and we want to do something for Montana—and this is a very vital thing and probably—and it is, without any doubt, the most important endeavor made in the several generations for the good of Montana. If there's anybody else that wants to talk on it, I'd sure like to hear them. I think you all understand my position. I'd like to answer any questions, if any come up, that you think I might be able to answer. Thank you very much for your consideration.

PRESIDENT GRAYBILL: Mr. Johnson, will you yield to a question from the Chair?

DELEGATE JOHNSON: Yes, sir.

PRESIDENT GRAYBILL: As we adopted these articles, I'm not sure that we made sure that they fit particularly well with the old Constitution, and I'm concerned, for example, as to where we put the veto power. The veto power is now in our Executive Article and the veto power in the old Constitution is in the Legislative Article, and we might be in a position that the wrong one got adopted and we wouldn't have any veto power or we might have two veto powers. Have you thought about that?

DELEGATE JOHNSON: Well, I think that, Mr. President, that the—if Style and Drafting couldn't take care of it, well, we'd have to leave it up to the Legislature to interpret it or make an amendment to cover it. But I insist that the new—

whichever proposal passes would have precedence over the present Constitution article it would have been put in place of had it been defeated.

PRESIDENT GRAYBILL: Well, my point is, if the new Legislative Article passed but the new Executive Article did not, then we wouldn't have any veto power.

DELEGATE JOHNSON: Well, yes, it's in the Legislative—

PRESIDENT GRAYBILL: No, it's in the Executive in our new one and it's in the Legislative in the old one. Well, all right, I just wanted to call—the problem is that I'm not sure the new Constitution dovetails with the old one so that, section by section, we'd have anything. Mr. Johnson, I think the problem is this. You've presented this resolution; I referred it to Style and Drafting; Style and Drafting has already considered it. It seems to me that you've tried to reach by resolution what you probably can attempt to reach by amendment when Style and Drafting presents its ballot substantive proposal, which I think will probably be this afternoon or tomorrow. Now, when they present their ballot proposal, their ballot will suggest that we vote on the Constitution and these three side issues; and at that time, by amendment to their ballot proposal, you could propose that we do it section by section—or article by article. And at that time, it would seem to me the body could debate whether they wanted to do it your way or the way Style and Drafting has proposed. So I think that's your best shot now. It doesn't do me any good to refer it to Rules, because by the time it got back, nothing would be accomplished.

DELEGATE JOHNSON: Well, Mr. President, you're suggesting then that I present it as an amendment or a proposal?

PRESIDENT GRAYBILL: I'm suggesting that, when the substantive report from Style and Drafting on ballot—on the ballot form—comes before this body for debate that, naturally, you can amend it; and your amendment, I presume from your resolution, would be to have it considered article by article; and at that time we could debate it as a body and we'll either agree with you or we'll agree with them.

DELEGATE JOHNSON: Thank you very much, Mr. President; I'll do that.

PRESIDENT GRAYBILL: Mr. Mahoney.

DELEGATE MAHONEY: Mr. President, it seems to me it's a little irregular to come out and have a committee report before something is referred to them. I think that we should at least have the courtesy shown us by the Style and Drafting Committee, if they made a decision on something that hadn't even got to them, and I'm sure it didn't get to the Chair until just now. Could we have a reason why they did this ahead? Did they—what's the reason? Could we have some answer from the Style and Drafting Committee?

PRESIDENT GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Johnson brought it up to the committee and handed it to us and said, "I present this resolution to you. What is your action on it?"And we took action on it. When it came up this morning, the Chair referred it to the committee. I advised the Chair that we had already taken action and it would be useless to act on it again.

PRESIDENT GRAYBILL: Yes, Mr. Johnson took it, Mr. Mahoney, to the committee.

DELEGATE MAHONEY: Mr. President, when Mr. Johnson's resolution is referred to the Chair and like it was done this morning—now, out of courtesy, he probably took it to them; but this was no official action because it hadn't got to them officially. And I think that the Chair should—is—when they go out and you refer it and then they give you a report right then, I think this is a new thing. I've never heard of this, Mr. Chairman. I certainly don't like it.

PRESIDENT GRAYBILL: Well, the Chair did refer it to Style and Drafting, and I'll leave it referred and maybe they will come in with a report, Mr. Mahoney. All right, are there any other motions or resolutions?

(No response)

PRESIDENT GRAYBILL: Very well, we'll be on Order of Business Number 8, Unfinished Business.

Mr. Champoux.

DELEGATE CHAMPOUX: Pages, sir?

PRESIDENT GRAYBILL: Yes; pages, sir.

DELEGATE CHAMPOUX: Right. It's my pleasure this morning to introduce the new pages this week. Would all the pages come forward at this time. We also have a number of old pages that—shall I use that term, "old"?—former pages that have come back and are donating their services without getting paid. The new pages are Marilyn Haugen of Augusta—would you please stand—Elizabeth Schrader of Great Falls; Peggy Quinn of Helena; Kathy Blake of Kalispell. And the former pages donating their services are Jack McLean of Brady and his twin brother, Jim McLean; Heidi Headapohl of Helena; Susan Leaphart of Helena; Tala Skari of Chester—she's the daughter of Carmen Skari; Carl Rostad of Helena. And Mr. Ray Lohman, at this time—and he hasn't had the opportunity to publicly express his appreciation for all of the pages that worked at this Convention—but he asked me this morning if I would put in the record his appreciation to all the pages that have worked at this Convention. They have been, he says, just great, and I think we all can echo that statement. Thank you very much.

(Applause)

PRESIDENT GRAYBILL: We want to thank you pages very much for helping us, and we're looking forward to the rest of the week. And your names will appear in the proceedings for today, and we'll see that you get a copy of the proceedings to take with you.

Very well, Order of Business Number 9, Special Orders.

CLERK HANSON: None, sir.

PRESIDENT GRAYBILL: Order of Business Number 10, General Orders.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number 11, Committee Announcements and Other Announcements. Now, the Chair has a couple of announcements. The Montana Historical Society has asked me to remind the Convention delegates that the library archives there want to preserve the personal records collected during your connection with the Constitutional Convention. One-third of the delegates have expressed an intent to deposit their papers in the archives, and anyone else caring to do so would be most welcome. Records of the commission and the convention will be preserved in the society archives, but they would like your personal papers as well—campaign material, correspondence, notes, or any input that helped you decide on the issues for historical preservation. You can make arrangements for deposit now or in the future by a call or a letter to the Montana Historical Society archives. The number, if you want to write it down, is 442-2694—442-2694—and I was informed that if you want, they'll even send a box to put it in. So, just call them up and they'll help you clean up your desks. Then, as I understand it, there are reservation lists at the—Mr. Toole or my secretary has a reservation list for Thursday night's dinner, and I overheard a conversation yesterday which someone seemed to be implying that maybe we weren't inviting your wives. Of course we're inviting you and your wives. The suggestion was that we may have some out-of-town guests from the Convention and we're not really going to be too strict on in-town guests; but in other words, out-of-town guests and your wives, of course, are invited. Then, committee meetings. I'd like to announce the following committee meetings. I'm sure that Style and Drafting is going to meet immediately upon adjournment. Isn't that right, Mr. Schiltz?

DELEGATE SCHILTZ: That's correct.

PRESIDENT GRAYBILL: And the Administration Committee, including the budget subcommittee, should meet in the Rules Committee room immediately after—not after adjournment but after the adjournment of the meeting after adjournment, which I'll tell you about in a minute. So, in other words, we are going to meet when we break up here this morning. Mr. Murray, is the Rules room full of equipment, or is it available?

DELEGATE MURRAY: Mr. President, I understood that they were going to do some interviewing in that room for the film, so that it would not be available.

PRESIDENT GRAYBILL: Let's move the Administration Committee meeting up to the Legislative Committee room, whatever that is—428—is that right? What's your room number up there, Mags?

DELEGATE AASHEIM: —434.

PRESIDENT GRAYBILL: —434. Anyway, the committee room. The Administration Committee meeting will be in the committee room upstairs, then, after adjournment. Now, the select committee on the ceremonies Friday will meet—at 1 o'clock, did we say, Mr. Garlington?—

DELEGATE GARLINGTON: (Inaudible)

PRESIDENT GRAYBILL: —1 o'clock.

That could meet in my office; there's only five of us. That will be fine. And the Voter Education Committee should meet this afternoon—on adjournment this afternoon, which at this time is not too clear. Now, to explain to you what I think the program for the day will be, Style and Drafting is working on a problem involving the ballot, which may require debate at 2:00 p.m. this afternoon, so we are planning to recess the Convention until 2:00 p.m. this afternoon while Style and Drafting completes their work, and you probably should anticipate a debate on bicameral-unicameral aspects of some nature at 2 o'clock this afternoon. Then, between then—or immediately now, what we would like to do is have our adjournment now until 2:00 p.m., but it has been suggested by a number of you, and especially by some of the members of the Public—of the Voter Education Committee, that it might be well to have a short discussion this morning of some of the aspects of what you're going to be up against in terms of meeting the public or talking about the Constitution when you get back to your home communities. In other words, we want to have a little bull session in which we talk about what we might want to do when we each get home, and we'll discuss what we know now of the voter—or of the kits that we'll give you. So, immediately upon adjournment, those of you who are not involved in the Style and Drafting Committee meeting might wish to remain; and I'm hopeful that the committee chairmen will be willing to discuss very briefly the—what they consider significant about their particular committee's contribution to the new Constitution. In other words, we'll have about 45 minutes or an hour of discussion; and then, by 11 o'clock, we ought to be able to break up. Mr. Harbaugh has sent me a message. The answer, Mr. Harbaugh, would be the same as to Mr. Johnson—that you can take it up at the time the ballot is proposed. Very well, are there other announcements?

Mrs. Warden.

DELEGATE WARDEN: I would like to talk about two things, Mr. President. First, there may be one more issue of the daily clipping sheet. They are printing the Constitution downstairs, and we're going to try to Xerox the copy today. If it works, fine; and if it doesn't, that will be it—the one you got yesterday. The second thing is concerning the pictures that the Highway Department took. Two or three people have been to me, saying that they got two copies of the wrong one and not the one that they ordered. Now, I don't know whether I can solve this problem or not, because they, too, are in a bind because their crews are out on the road taking pictures and such things for the Highway Department; but if any of you have any problems, get them to me right after adjournment so that I can at least call and find out. It may be that they were put in the wrong packages, but I'll try to do what I can, but I don't promise miracles. Thank you.

PRESIDENT GRAYBILL: Mr. Dahood.

DELEGATE DAHOOD: Mr. President, I'd like to announce a very brief meeting for the Bill of Rights Committee in the committee room immediately after adjournment.

PRESIDENT GRAYBILL: You mean after the second adjournment, don't you? You're going to stay and talk with us a few minutes, aren't you? I was counting on calling on you.

DELEGATE DAHOOD: Yes, Mr. President. Immediately after the second adjournment. Thank you.

PRESIDENT GRAYBILL: Thank you.

All right, Mr. Eskildsen, may we have a motion until 2:00?

DELEGATE ESKILDSEN: Mr. President, I move we stand in recess until 2:00 p.m. this day.

PRESIDENT GRAYBILL: The motion is to recess till 2:00 p.m. this day. All in favor, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

(No response)

PRESIDENT GRAYBILL: So ordered.

(Convention recessed at 10:04 a.m.—reconvened at 2:10 p.m.)

PRESIDENT GRAYBILL: Mr. Woodmansey, would you close the back doors for us, please. The Convention will be in order. Ladies and gentlemen, we will start at Order of Business Number 1 and proceed through, in a moment, without objection, to Order of Business Number 10. You recall that we recessed this morning until this hour in order to take care of the ballot proposal of Style and Drafting. Mr. Clerk, Reports of Standing Committees.

CLERK HANSON: "Mr. President. We,

your Committee on Style, Drafting, Transition and Submission, having had referred to it Resolution Number 16 that all articles be presented separately on the ballot for a Yes or No vote; that any alternate proposal will be presented separately for a Yes or No vote; that in the case any article fails to pass the election, then the provision under that department of the 1889 Constitution will be in effect, except as where it may conflict with the intent of any section of the adopted articles of the new Constitution, which thereby will take precedence over the 1889 Constitutional provision, and having considered the same, report as follows: The Committee voted unanimously to reject the resolution for the reasons that the proposed plan for entire, too cumbersome, that it would be unintelligible and confusing to the voters, unduly expensive, and received too late to implement. Signed: John M. Schiltz, Chairman, Style, Drafting, Transition and Submission." Mr. President.

PRESIDENT GRAYBILL: Very well, the Chair will accept the resolution and file it; and, as we discussed this morning with Mr. Johnson, the matter may come up today when we discuss the ballot proposal, by way of amendment. No, I'm not going to adopt or not. I'm going to just accept and file the committee report. Now, Mr. Clerk, what other reports of standing committees?

CLERK HANSON: "Mr. President. We, your Committee on Style, Drafting and Transition herewith submits the proposed ballot for consideration by the Convention. Signed: Schiltz, Chairman." Mr. President.

PRESIDENT GRAYBILL: Very well, the adoption schedule which is now submitted by Style and Drafting is hereby referred to Order of Business Number 10. Without objection, we'll be on Order of Business Number 10. Is there objection?

(No response)

PRESIDENT GRAYBILL: If not, Mr. Eskildsen, do you want to move?

DELEGATE ESKILDSEN: Mr. President, I move the Convention resolve itself into Committee of the Whole for the purpose of handling business under General Orders.

PRESIDENT GRAYBILL: The motion is to resolve this Convention into Committee of the Whole. All those in favor, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

(No response)

PRESIDENT GRAYBILL: So ordered.

(Committee of the Whole, Graybill, Chairman)

CHAIRMAN GRAYBILL: Very well, members of the committee, we have before us on General Orders the adoption schedule which—and the transition schedule and the official ballot in three different versions, all of which are submitted by Style and Drafting. Now, it's my understanding that perhaps the best way to approach this subject is to have the Style and Drafting Committee explain what they have done here; and then, after their initial explanation and before debate, we will start and we will adopt—or we will read and adopt, in the Committee of the Whole, either a ballot or the adoption schedule or the transition schedule. In other words, we'll proceed through and we'll debate it, but after the explanation. So, without objection, we will now turn the meeting over to Mr. Schiltz, who will explain first, and when he's finished his explanation, we'll then consider the matter before you.

Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman and delegates. I think, Mr. Chairman, I would like to say that we might not be completely finished with the adoption schedule. We submitted it with the proposed ballot because we were hung-up on the ballot. Now, the adoption schedule and the proposed ballot will come in with our final report tomorrow morning, if we get all these matters resolved, with the complete Constitution in connection with it. But if that develops, I'm not prepared at this moment to do more than discuss the ballot problem, so perhaps we can take whether we finally pass it later.

PRESIDENT GRAYBILL: Very well. You go ahead, and we'll start with the ballot proposition, and then I'm sure that the adoption schedule and the transition schedule can be discussed and dealt with later.

DELEGATE SCHILTZ: All right. You all should have now on your desks what we call our "adoption schedule". As I explained to the President, this will be attached to our final report. Now, the thing we're concerned with most are the three ballots that you'll find on the back. First of all, you should be aware that in Report Number 3, at page 48, the Constitution of Montana, Article XIX, Section 8, authorizes the Convention to do three things: revise, alter or amend the Constitution. Now, the Convention—as provided in Article XIX, Section 8: "The Convention's revisions, alterations or amendments should be—shall be submitted to the electors. Unless approved by a majority of the electors voting at the election, no such revision, alteration or amendment shall take effect." Now, Section 17, sub. 9, of the Enabling Act, the act under which we're operating, provides that if a majority of the electors voting at the special election held for the ratification of the Constitution shall vote for the proposals or that those—if they shall vote for the proposals of the Convention, they shall then be adopted. Now, there are six lawyers on the Style and Drafting Committee, and I am confident of the talent and ability of each one of them, and we are agreed that any choices that are put to the electors must prevail by a majority of those voting at the Constitutional Convention ratification election—or the Constitutional ratification election. Now, I want to make that very clear, and I think I'll illustrate that on the blackboard, if I may.

(Delegate Schiltz illustrating on blackboard)

DELEGATE SCHILTZ: Now, if you'll look at the blackboard, you'll see I've put up there "Constitution", by which I mean Constitution as a whole, the entire document. If 200,000 people vote on the Constitution, that will determine the number of votes cast at that election. Now, if we had alternate Number 1 which had two choices and there were 96,000 votes cast for the first choice and only 94,000 cast for the second choice, neither one of them would carry. The first—the 96,000 vote—wouldn't carry because, as we interpret the Enabling Act, it would require 100,001 votes in order for that proposition to be adopted as a part of the Constitution. That, in a nutshell, is what our problem is. Now, bear in mind that Style and Drafting received the Legislative Article from the Convention without any preference having been stated for either unicameral or bicameral. Now, if you will refer to the ballot on the back of the final report—the first ballot you come to—you will see that the first issue on the ballot, as much as I have put it up here, is for approval or disapproval of the entire Constitution, which contains both unicameral and bicameral sections, neither one having been adopted by the Convention. Now, the second issue on that ballot is whether the voter favors unicameral or bicameral. Now, if that were put out as that first ballot we drafted and as was more or less dictated by our having the Constitution with both of them in it—if that vote came out that way, then we would have neither unicameral nor bicameral and we'd be back to what we had in 1900—or 1889, or the present Legislative Section—Article. Now, Style and Drafting sees the possibility, as I indicated that neither one of those would pass and we'd be back where we started. Accordingly, Style and Drafting came to the conclusion that one or the other, unicameral or bicameral, should go into the Constitution. In other words, this Convention should adopt one or the other of them, so that that one for sure is in the Constitution, and then submit to the voters which one they want; and if they achieve a sufficient number of votes, the one that's left out would replace the one that's in; but bear in mind that it must, under this example—to overcome the one that is in there, it must achieve 100,001 votes, according to our analysis and interpretation of the Enabling Act. Now, there is one other option that we have and that's the third ballot—would you turn that over, John—where instead of two—yes—now, that revised ballot number 1 is what some of the people are interested in—in other words, they feel that if one goes in, that particular type of legislature has a definite edge in the balloting by the people, and so they would like to have one go in but nevertheless give the people two choices, one or the other. Now, if one of them—in other words, that would put them on an equal basis in the choice department but not on equal basis in what is included in the Constitution itself. Now, the third ballot is one that would put one or the other in and only give the voter one choice: do you want to take it out or do you want to leave it in? Now, before I finish that explanation, and that's the extent of what I have to say, except that so far as the Style and Drafting Committee is concerned, the gambling proposition is on all fours with the legislative proposition. In other words, as we got the material from the floor, we were—and you'll see that subsection 10, or whatever it is in the General Government, provides that both of them are in the Constitution, so that would put them in this same posture. Now, after you dispose of the legislative thing, I would hope that you would also dispose of the gambling proposition. We do conceive that we, as the Style and Drafting Committee, can choose which should go in in both instances, both legislative and gambling, but the legislative was such a vital thing that we chose not to do it but are going to be bound and guided by what you do on the floor. Now, the gambling proposition is not all that vital, in the view of the committee, and we, if you don't act, will select one or the other to put in the ballot or to put in the Constitution, with the alternate to go on the ballot as a one-shot decision. Then you can reverse us if you want, but we'd rather you did both of them. I want to call your attention to one other thing. The committee is unanimous that it does not want any more options put on the ballot. We feel that this is plenty. All your fears were ungrounded. We only have on the ballot what we were directed to put on the ballot—or which—or what we must put on the ballot because we had no other choice. Thank you.

CHAIRMAN GRAYBILL: Very well, the Chair understands Mr. Schiltz to have said, on behalf of the Style and Drafting Committee—The Chair understands Mr. Schiltz to have said, on behalf of the Style and Drafting Committee, that they consider there to be a problem in the nature of the ballot. The Chair isn't going to explain this if we are going to sign books, so we're either going to listen or else let's quit signing the books till we've settled this. We have a serious problem here, and maybe I'm only explaining it to sort of clear my own mind, but the Chair understands Mr. Schiltz to have said that the ballot problem is this: what they call "official ballot" has a flaw in it because, assuming we could get 51 percent on the first proposition, for or against the Constitution, if we put the unicameral and the gambling issue as clear-cut alternatives, then each alternative must also get 51 percent—at least one of the two must get 51 percent or we have nothing in the Constitution about unicameral and gambling. It doesn't matter too much on the abolition of the death penalty, since there's nothing in there now and the 51 percent would merely add something, so as I understand the Style and Drafting Committee's position, it doesn't like that proposal, but that's a possibility. The second possibility, which they call "revised ballot number 1", has the effect of putting one proposition in the Constitution. Let's say the bicameral goes in the Constitution and the language down in III about the—the language about gambling goes in the Constitution—namely, "there shall be no gambling"—and then you put on the outside two propositions—(a) unicameral, (b) bicameral—and whichever one wins replaces what's in. Now, if the bicameral won on the outside and was already on the inside, it replaces itself, and so the bicameral wins. If the unicameral wins, it would replace the bicameral; and obviously, we could reverse those and put unicameral in. In other words, we could put into the Constitution the language of one of these two proposals and, in the case of gambling, the language "there shall be no gambling", and then we could substitute by whether either of the two alternatives got 51 percent. The advantage of this kind of ballot is that bicameral and unicameral both appear and people get a choice between two differents, and on the gambling thing, they get a choice between two differents. Then, as I understand it, the third ballot again puts one of these propositions in. It either puts unicameral or bicameral in and, in the case of gambling, it would put in the language "there shall be no gambling"; and then it puts the opposite one on the outside, and if it got 51 percent, it would replace. Now, the disadvantage to that is the one on the outside has, theoretically, a less chance than the one in the body because people may vote for the main proposition and not vote on the lesser one. Then the fourth thing I understand them to have said is that they do not want any more options. Now, I'm not sure how they want us to proceed. There are, of course, other alternatives than have been presented here, and we can discuss these alternatives. The Chair would have preferred to have an alternative and let you amend them, but the Style and Drafting people are concerned and want a discussion—or want our advice on how to do this. The Chair has at least one other idea of his own, and I presume many of you do, too. Mr. Schiltz, is the Style and Drafting Committee prepared to move any one of these ballots as the ballot?

DELEGATE SCHILTZ: No, your Honor—or Mr. Chairman—(Laughter)

CHAIRMAN GRAYBILL: You've fixed it so you and I can't go on the court, Mr. Schiltz. Now let's—(Laughter)

DELEGATE SCHILTZ: I tried to fix it so we could. But, in any case, we conceive the problem to be this: that if we had chosen one or the other of these, we would have had a debate tomorrow on the up or down of what we chose. So, in the interest of time, which is extremely tight, we asked the leadership if a debate could be scheduled so that we could get the sentiment of this Convention—or this committee before we did it so we'd eliminate that debate on Wednesday or Thursday, anticipating that it might involve some time. So, I don't want to move one or the other unless that would—I certainly wouldn't move the one that we got hung-up on.

CHAIRMAN GRAYBILL: Well, all right,

I understand that the Style and Drafting Committee doesn't want to move any. I think the Chair will operate on this basis. We'll open the matter for discussion; people may, if they care to, move them; and we'll vote on them and dispose of them or amend them or come back to them as we please. And when we get through, we may or may not have some solution. Very well.

Mrs. Warden.

DELEGATE WARDEN: Mr. President, I would just like to say that I have looked through the first, second and third ballots; and as one who has worked in the polling places for several years, I would say we'd better make it simple or we will have nothing but confusion, because the first one is relatively simple—I mean, a small amount of wordage. I think that's fine. I would like to see either the bicameral or the unicameral put into the Constitution, and I would prefer the unicameral, but I think we should make the wording on the voting as simple as possible because when you have too many words, people are confused. They don't like forms and they would rather not vote on something if it's too complicated.

CHAIRMAN GRAYBILL: Mr. Swanberg, you were up.

DELEGATE SWANBERG: I was wondering if we could have the Chair's idea? You indicated you had an idea. Do you care to disclose it at this time, or do you prefer to wait awhile?

CHAIRMAN GRAYBILL: All right, I'll tell you what my idea is. It occurs to me that when people vote on Proposition 1, for or against the Constitution, that if we let people who vote No then vote on the other propositions, we're giving them a second shot that they maybe don't need. I think we should say that if you vote Yes, you can vote on the others and if you vote No, you can go home. It seems to me—I understand a lot of people don't like that, but either way you do it, one side gets an extra vote; and I'd like to see the side get the extra vote that's voting for the Constitution. But maybe that's unfair. But, in other words, if you did that—you see, it doesn't make any difference if bicameral gets 51 percent of the votes if the Constitution, in fact, gets 49. Once the Constitution is dead, it doesn't matter what happens down below. So it seems to me that we ought to make it a rule of our election, and I think we have that right, that you can vote for or against the Constitution, and if you vote for the Constitution, then you may choose what you want on the other ones. But I—Others may not agree, but that's my idea.

Mrs. Bugbee was up next.

DELEGATE BUGBEE: Mr. Chairman, I agree with Mrs. Warden very much. The thing that—this is difficult to understand, but I think weighing difficult words versus difficult ideas is one thing that Style and Drafting and all of us have to take up. Now, I, for instance would like to go on record—I don't even like the word "abolishing". I don't think many people really know what that word means, and when you say "for abolishing", you're talking—"for" is a word for something, and in the same word, you're having a word that is against something. I think that in itself is a confusing idea. And then, I think down—and I'm on the official ballot, the first one, "for allowing" the Legislature or the people to authorize gambling. This is a complex idea to have in a ballot, and I think overly complex, and it's a difficult one to weigh.

CHAIRMAN GRAYBILL: Mrs. Bugbee, I think your point is extremely well taken. I don't think, however, that Style and Drafting intends to imply that this is the wording they would suggest. I think—am I wrong, Mr. Schiltz? You're trying to discuss a form and not the words?

DELEGATE SCHILTZ: That's right, at this moment. We welcome those ideas, but I assume they would be changed tomorrow. The thing we're really interested in is which basic form they're interested in. Now, I just explained to Mrs. Warden behind me that certainly we aren't going to write opposite that box on, say, the second revised ballot, either "unicameral" or "bicameral". We're just going to put the Constitution in as it is, and that's only explanatory.

CHAIRMAN GRAYBILL: And there's been suggestions made that you use the one house and the two house language, and so forth, so let's presume for the benefit of today's debate that we are going to clean this language up as we've cleaned all the rest of it and we're going to make it just as simple languagewise as possible. But let's not argue whether we should use "against" or "for" or "abolish" or anything; let's argue the form. If we can decide on the form, at least Style and Drafting can go forward.

Mr. Kamhoot.

DELEGATE KAMHOOT: Mr. Chairman, this probably isn't going to come out this way in every case, but I notice on this first ballot, the leading ones here, which I think have a little advantage when they go into the polling booth—will these be changed with alternate ballots—so many hundred ballots run and then these will be rotated?

CHAIRMAN GRAYBILL: That's what should be done, Mr. Kamhoot. You're absolutely right. The ballots should not always be in the same form, I think, but that would be a matter for the Rules Committee to see that the Secretary of State did.

DELEGATE KAMHOOT: Could I put a question to Delegate Schiltz, then?

CHAIRMAN GRAYBILL: Mr. Schiltz?

DELEGATE SCHILTZ: I yield.

DELEGATE KAMHOOT: Yes, John. Is this your intent, that these would be rotated every so many hundred ballots?

DELEGATE SCHILTZ: We didn't even consider that, and that is a matter, as Mr. Graybill said, for the Rules Committee when they deal with the Secretary of State. I would prefer that it—personally, I would prefer that the most important things be at the first and that they stay that way on all ballots. I don't know what the law is on that. I do know that you must rotate candidates, and I don't—I'm not sure that you rotate constitutional amendment provisions because the one on the bottom usually loses, so I would guess that that's not the law, but I haven't looked it up.

DELEGATE KAMHOOT: Well, Mr. Chairman, I would suggest here now, on these four proposals, looking down them, of course the first one, for the proposed Constitution, would probably have a little advantage, and this may be fine. I think we should all maybe feel that, but when you go to the next one, you have unicameral legislature first—I would think that the bicameral people would not like this too well; and you go to the third one and you have, "For abolishing the death penalty"—I would suppose the ones that are not for that would not like this. And then, as you go to the bottom one, of course, on the gambling, you have the same situation. And I find myself, outside of the first one, perhaps—I would feel I was in the minority being on the last box there. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Aasheim.

DELEGATE AASHEIM: I think the Chair brought up a very fundamental question here that I think we should resolve before we decide anything farther, and that is the matter of people who vote against the proposed Constitution, whether or not they should have the right to vote on any of the other alternatives. It seems to me that the Chair would be in error there when he said that those who voted against the Constitution should not have the right to vote on the other propositions, because no matter, they will have to live with the Constitution if it is adopted. Consequently, they should have a right to vote on these other alternatives; and, Mr. Chairman, if it is in order, in order to settle this now, I shall so move, if that—if my motion would be in order, Mr. Chairman.

CHAIRMAN GRAYBILL: I'm perfectly willing it be in order.

DELEGATE AASHEIM: That anyone who votes against the proposed Constitution should also have the right to vote on any of the other alternate proposals.

CHAIRMAN GRAYBILL: Very well. Mr. Aasheim has made a motion to the effect that those who oppose the Constitution by vote—that is, those who vote against the Constitution shall be allowed to vote on the other propositions nevertheless. That correctly state your proposition?

DELEGATE AASHEIM: Yes.

CHAIRMAN GRAYBILL: Very well, is there discussion?
Mrs. Bates.

DELEGATE BATES: Mr. Chairman, I think, too, that we're going to have to permit this, because some people may be more interested in voting on the—one of the alternate proposals, such as gambling or the death penalty, and it just may upset them enough that they wouldn't vote for the Constitution. I was wondering, could I ask Delegate Schiltz a question about another matter on the ballot, or is that out of order now?

CHAIRMAN GRAYBILL: Well, we have a motion on the floor. I think we should stay fairly close to it—if it relates to this motion. Let's settle this matter. The only way we're going to get it settled is to start settling it.

DELEGATE BATES: Okay.

CHAIRMAN GRAYBILL: Mrs. Blend.

DELEGATE BLEND: Mr. Chairman, what documentation do you have for suggesting that we could use a solution such as you have offered? I know Delegate Bates and Aasheim have indicated that they don't think it could be done.

CHAIRMAN GRAYBILL: Well, I think that we have to get a majority. I agree with the committee that we have to get a majority on each proposition, but they have demonstrated that there are ways of stating the ballot so that you can—so that if you get a majority on the Constitution at all, you have a majority on some proposition.

DELEGATE BLEND: I understand all of that.

CHAIRMAN GRAYBILL: Now, once you have that, my aim—if you want to know my full aim—my first aim is, I would like to adopt the Constitution; therefore, I want to encourage people to vote for the Constitution, and so I want to have the rules that in order to vote on these other funny little things, they have to play the game and vote for the Constitution. Now, that's my purpose or reason. As far as my authority, it matters not, I don't think—it doesn't matter at all if nothing gets 51 percent down below—if anything gets 50 or 60 or 80 percent down below and we haven't got 51 percent up above, it doesn't make a whoop of difference; and it seems to me that we're talking about what Mr. Holland was talking about the other day—"double-shotting" it. The present time, we have a Constitution that does not allow gambling, so you could vote against the Constitution and then vote No on the gambling and you'd have two shots at not allowing gambling. I don't know, that seems to be somewhat offensive to me. I think they voted against the Constitution, they voted to not allow gambling and they shouldn't be allowed another shot at it in case the rest of us vote for it. They should have to vote for it in order to vote for the Constitution. Now, I'll grant you that that's a substantive rule of the game that this Convention would have adopted and that even in spite of it, we would have to get 51 percent on all the propositions. But if we got 51 percent on the ballot, then I would be in favor of one of the ballots which allows us, then, automatically to get one of the other propositions in; and I just think it would—we'd have a better chance of passing the Constitution. I'm greedy, I guess.

DELEGATE BLEND: Well, it occurs to me that that would be the case if we knew that we were in the clear and could get a legislature. Thank you.

CHAIRMAN GRAYBILL: Now, the Chair would like to say one other thing. This has been a question directed to me, and I am not going to try and monopolize this discussion, but I am going to—I would like to take the view, today, that I might participate in this argument. This seems to me to be a little different matter than the substance; and I'm not going to monopolize it; and everyone else can have their chance to speak, too; but please don't—if anyone is offended by my doing this, why, I'll be glad to relinquish the Chair, but otherwise, I'll just comment if someone asks.

Mr. Romney, you were up.

DELEGATE ROMNEY: Mr. Chairman, with respect to your proposal, as I understand it, the people would vote on the Constitution itself and those who voted No would not be permitted to vote on the other three proposals. Is that correct?

CHAIRMAN GRAYBILL: That's right.

DELEGATE ROMNEY: Now, if you had —thank you, sir. Now, if the vote was close and— say a hundred and ten thousand voted for it and ninety thousand voted against it, the ninety thousand would then have no vote.

CHAIRMAN GRAYBILL: On what?

DELEGATE ROMNEY: The hundred and ten thousand would be voting on the other three propositions—

CHAIRMAN GRAYBILL: Right.

DELEGATE ROMNEY: —and if they broke in the same proportion, what would be the situation with respect getting the 51 percent under the Enabling Act?

CHAIRMAN GRAYBILL: I would use a form like ballot number 1—revised ballot number 1—which, in fact, places something in the Constitution so that when they voted For, they would have automatically voted for something.

DELEGATE ROMNEY: And that would be sufficient, you think?

CHAIRMAN GRAYBILL: Right. And then it would take 51 percent to take that out of there.

DELEGATE ROMNEY: That would take all—would that take care of any legal hurdles?

CHAIRMAN GRAYBILL: Well, we've got as many lawyers on this as we got opinions and—

Let's see, Mr. Davis, I think you're next.

DELEGATE DAVIS: Mr. President, if I may digress, I am happy that you are participating in this, and I may not have another opportunity, but I want to thank you for your leadership throughout this thing. On this particular issue, I most—I have a very respectful concern. I, too, have thought for a long time the more issues you put on the ballot, you're inviting a double negative. In other words, a person will say, "I'm against the Constitution"; and if something in the Constitution really concerns, they're going to vote against it, perhaps; and then they'll vote against—they'll vote down below. But, on the other hand, when we started out here with the Bill of Rights and people—the right of people to disagree, the right of people to vote, the rights of minorities, this would be a minority that then would be deprived of their right to vote on these other issues just because they didn't prevail on the first. It seems to me, wouldn't we be getting into some sort of inconsistency? In other words, in our desire to pass the document, if we disenfranchise those people who disagree with us—in other words, I should have the right, assuming that—say, I'm against the Constitution, but in the event the majority wants the Constitution, I should still have the right to be for or against the death penalty or unicameral or bicameral. It gives me a great deal of concern—I'm happy there are not more issues than this on the ballot, and I was hopeful there wouldn't be this many, but it seems to me we may be jockeying ourselves into a place where we're preventing whatever the minority it might be, assuming it is a minority, from voting on what, in effect, are constitutional amendments in three instances; if you don't vote for the first one, then you're not able to participate and vote on the type of government you want to live under, even though the majority says, "We want that Constitution," I say "I don't; but if we do have it, I still want gambling in or out, or death penalty in or out, or still want the right to vote on the type of Constitution I live under." I think we've got a fundamental difference of opinion, and as I said at the outset, I think you've done a wonderful job—which doesn't enter into this—and all of our leadership, and I'd like the record to show that I'm sure that's the consensus of everybody here. On this particular issue, I'm glad you got the ball started, because someone had to, but it seems to me we're getting around to the place where we're—in our desire to pass the document, we may be disenfranchising a lot of people at the end that we were giving a lot of rights at the beginning that we're going to be taking away from them before we get through with the ball game.

CHAIRMAN GRAYBILL: Mr. Harper, I think you were next.

DELEGATE HARPER: Thank you. I think I agree with Carl on this. You've done a wonderful job, Mr. Chairman, and we appreciate it; but you might be stupid on this. (Laughter) That was the sense of—

CHAIRMAN GRAYBILL: You don't have to get permission to speak by telling me—(Laughter)

DELEGATE HARPER: That reminds me of a good joke I won't tell now. It might—let me embroider on what Carl said. Carl said you might disenfranchise these people. I'm not—I'm inclined to agree more with you on that, that if they have a chance to vote No, then they've made their choice. They're against the new Constitution; therefore they want to express their opinion. But that sounds right—but listen to this. Why are we putting these things on the ballot? So that people will have a chance to vote for something different—on the gambling issue, let's say—or for the same thing, without having to vote for the old Constitution. That's it. So when a person looks at that issue and he says—he sees that you have to vote Yes for the new Constitution and you've got something in here that he doesn't want, on either side of this vital issue, like on gambling or on—say, the bicameral is in there or unicameral is in there and he doesn't want it, he's probably smart enough to know that no way is that alternative going to carry—no way. Let's say the Constitution only carries by 51 percent; that would automatically mean that everybody who votes for the Constitution has to be for the alternative or the alternative couldn't carry because it wouldn't get a majority vote. Therefore, he figures out, "I can't take a chance on voting—allowing the gambling issue to be voted on, or I can't take a chance on allowing bicameral to slip out. You see, I have to vote against the Constitution." Now, I've probably muddied the water, but what I'm trying to get at is, the reason we put these things on the ballot is to give the people who would ordinarily be against the new Constitution a chance to vote No and still a chance to express themselves on these particular issues.

CHAIRMAN GRAYBILL: Mr. Jacobsen was next.

DELEGATE JACOBSEN: Mr. President, fellow delegates. I don't know whether the committee has considered the fact that we should have, suggesting your revised ballot Number 1, on—with an explanation at the top of the Constitution, whether we put bicameral or unicameral in it, and a brief explanation. That will be one ballot. Then we have another ballot, explanation on top, for replacing whichever one it is or against that. A third ballot for the gambling—for gambling or against gambling. And the bottom one, the fourth ballot, for abolishing the death penalty or against. Now, in my experience in being a judge and so on in election booths a lot of times, whenever we have the issues and there is a separate ballot for a bond issue or some special improvement district or something like this, the people are given that ballot and they vote those ballots. They vote each one. This way, they would have four ballots to see and consider instead of—then we would be sure that that ballot, for or against the Constitution, would have consideration and each of the others would be considered individually and independently. Very, very seldom did we ever find those special ballots where people did not mark them the way they felt. So I think it would be a way—it would cost a little bit more, maybe, for the printing of these ballots—and really not either. It could all be printed in one and cut in four pieces, or however they do it, but I think that this is something that should be considered.

CHAIRMAN GRAYBILL: Mr. Driscoll.

DELEGATE DRISCOLL: Mr. Chairman. We were sent here as elected representatives of the people; we were to express the will of the people. We aren't doing it. The Chair has often stated from his position up there that this body can do anything it wishes. I think we should present this Constitution to the people without any alternatives. If unicameral is more strong than bicameral, then we should present it in that manner. If we want the death penalty and—that's the way it should be presented. We should present this thing to the people without any alternatives. We should take our job seriously as elected representatives of the people and do our job as it should be done. Now, how can I move that, Mr. Chairman?

CHAIRMAN GRAYBILL: Well, I think you can keep it in mind, but I don't see how it has anything to do with—

DELEGATE DRISCOLL: It has a lot to do with it.

CHAIRMAN GRAYBILL: Well, I suppose you're with me if you really believe that, because you're going to take all those other things off.

DELEGATE DRISCOLL: —all out. I want everything out. I would be—I'm a bicameralist, but if the sense of this body is for a unicameral legislature, then I'd accept it. We accepted the Revenue and Finance Article. We accepted the Education Article. We accept everything.

CHAIRMAN GRAYBILL: Mr. Driscoll, we've got a proposition before us; namely, that those who oppose the Constitution should be allowed to vote on other proposals nevertheless. I think we've got to dispose of that. At least, I don't see that your proposition has anything to do with that. Now, I have another one up here to delete one of the proposals, which you might support simply as a step toward your proposal; and as soon as we have gotten rid of this one, I'd entertain a motion and we'd find out whether the body wants to have any alternatives or not. But let's see if we can't solve Mr. Aasheim's motion first, and then we'll—I've written your name down here, and we'll remember you.

DELEGATE DRISCOLL: (Inaudible)

CHAIRMAN GRAYBILL: Pardon?

DELEGATE DRISCOLL: May I make that motion when the time comes?

CHAIRMAN GRAYBILL: Surely.

DELEGATE DRISCOLL: Thank you.

CHAIRMAN GRAYBILL: I think, Mrs. Bugbee, you're up again next.

DELEGATE BUGBEE: Thank you, Mr. Chairman. I am against Mr. Aasheim's motion for now because, taking the unicameral-bicameral argument, it seems to me that if someone votes against the Constitution, they are voting for the old bicameral system; so therefore they really should not have the option to vote either for the new bicameral or the unicameral. That's really giving them—it's a three-way choice, which I don't think is fair.

CHAIRMAN GRAYBILL: Mr. Joyce.

DELEGATE JOYCE: Well, I rise in support of Delegate Aasheim's motion and against the Chair, I guess, but notwithstanding—for this reason: it seems to me that his point is perfectly valid, but the further point—I don't see how you can practically do this. You destroy the secrecy of the ballot. You come in to vote, you have to announce how you're going to vote—that you're going to vote for the Constitution—before they'll give you any of the other ballots, and it seems to me that would be completely impractical to do and that you just couldn't do it.

CHAIRMAN GRAYBILL: Mrs. Erdmann.

DELEGATE ERDMANN: Mr. President, I speak in strong support of Delegate Aasheim's motion. I think we're going to need all the good support we can have from the public, and I think—I understand your position, but I think that you would defeat yourself because it would amount to poor public relations. And we all understand that if the main framework of the Constitution fails, the amendments automatically do, too; but this is a risk we have to take. And it wouldn't be all lost even at that, because it would serve as a very strong hint to future sessions of the legislature just how Montana citizens felt about each of these three ballots; and I think it would still serve a useful purpose, but I don't believe that we could in any way deny the citizens the right to vote on the amendments, pro and con, and also on the main Constitution. Thank you.

CHAIRMAN GRAYBILL: Mrs. Reichert.

DELEGATE REICHERT: Will Delegate Schiltz yield to a question, please?

DELEGATE SCHILTZ: I yield.

DELEGATE REICHERT: Thank you. I have a copy of the Illinois ballot, and I notice the last statement in the explanation is: "The voter may vote on any of these propositions regardless of how a vote is cast on the proposed Constitution." Do you know why they did this in Illinois?

DELEGATE SCHILTZ: No, Mrs. Reichert, but we were—at least, I was—aware of that, having looked at that ballot. This question did come up in the committee. Mr. Holland raised it last night, and we decided that we didn't have enough legal research available to say that we could do that. We don't reject it or accept it, but I was aware that Illinois had that.

DELEGATE REICHERT: Mr. Chairman.

CHAIRMAN GRAYBILL: Mrs. Reichert.

DELEGATE REICHERT: I have some statistics on the Illinois election—the result—and I think the most interesting factor is the one that reported that 57,124 persons voted for one or more alternate proposals but did not vote at the top on the Yes or No issue for the new constitution; and I think that is an interesting factor. Mr. Chairman, there is one other question that I would like to ask Mr. Schiltz related to this ballot suggestions. The idea of the revised ballot number 1 appeals to me greatly because I think that this would give the voters the best choice, the kind of choice I think we've intimated we would give them, a clear-cut choice between unicameral and bicameral; but in looking at this ballot, it looks so complicated. I think that for the case of simplicity, let's just assume that bicameral is in our—I almost choke on the words—that bicameral is in the Constitution itself, and then we would say for the alternate 2-A, "for replacing bicameral with unicameral." Rather simple—2-B would be for retaining bicameral. Isn't that the way the ballot would look? I mean it wouldn't—this looks so complicated, Mr. Schiltz. I understand why—because you don't know which is what—but wouldn't it be rather simple, actually—I mean, Mrs. Warden brought up a good point. We hate to complicate, you know, the situation.

DELEGATE SCHILTZ: I yield, Mrs. Reichert. (Laughter) Yes, this was only done in this fashion, very hurriedly, to place before this Convention and this committee what the options are. This is not in final form. We'll arrange it so it's intelligible and very simple, if we once get the expression of the committee.

CHAIRMAN GRAYBILL: As a matter of fact, Mr. Schiltz, your ballot number 1 must be in error, because you can't replace the one that's in with the one that's out, so you've got to say, "for replacing"—on the number 2-A and 2-B, you've got to say, "for replacing bicameral with unicameral" or "for leaving bicameral in". You can't have them both replaced. But that's a minor matter.

Mr. Holland.

DELEGATE HOLLAND: Mr. Chairman, I did not advance the proposition that the people who voted No on the Constitution would not be able to vote on the lower—on the side issues. The proposition I advanced the committee was—what we're faced with is, we're faced with the fact that a certain number—we'll say 200,000 people vote on the first proposition, where we would get a split of 51 percent to 49 percent, and a corresponding—say 10 percent less voted on the lower proposition—we might have 48 to 47 percent. My proposition to the committee was that we should put a rule on that that the ballot is void unless they vote on all four propositions. Thus, we wouldn't have the decreasing vote, and if they vote for or against the Constitution but don't vote on the side issues, then the ballot is void. And if—this would almost guarantee that we would not have this situation, we'd be running—that we're afraid we'll run into, where we'd have less than 50 percent for any one of the side issues. Now, that was my proposition. The idea of the committee was they weren't sure whether this would—how this—whether we could do this or not. No one cited any authority or gave any particular reason. The point was, we're in a bind. We weren't sure we'd be right. I would suggest upon what we're talking about, about forbidding people to vote, almost surely we'd be open to a question on that. We'd run into tremendously bad publicity from the newspapers, which might create a backlash which would—the people thinking they were being forbidden to vote unless they voted in favor of the Constitution would lead them to vote against the Constitution or not come out at all. And the third thing is that if we restrict the voting on the side issues to only those who vote for the Constitution and we lock in one choice up above, there's just no way that the side issues could get 50 percent. And I heartily endorse what Mr. Driscoll has said—that if we're going to come to anything like that, we should get busy. We're the elected representatives—get busy, and let the voters know what we want, and have no side issues at all.

CHAIRMAN GRAYBILL: Mrs. Mansfield.

DELEGATE MANSFIELD: Mr. Chairman, in other states that have failed, having only the two propositions, for or against—in this matter—for instance, Maryland failed on one particular instance where they said that the sheriffs were being deleted from the Constitution, so they had a campaign and voted for the—against the Constitution. And I believe that if they have your plan of "for or against", then they may vote on these other issues. In our—I know that many of the delegates, while they were campaigning, were asked this by the constituents in their district—what if you were—if we were opposed to some particular thing? And, of course, our answer was that the only way that this could be remedied would be to have it on the side ballot. Thank you, Mr. President.

CHAIRMAN GRAYBILL: Mr. Harbaugh.

DELEGATE HARBAUGH: Would Mr. Aasheim yield to a question?

CHAIRMAN GRAYBILL: Mr. Aasheim?

DELEGATE AASHEIM: I yield.

DELEGATE HARBAUGH: It seems to me that maybe we're getting the cart before the horse, Mags, with your motion; and I wonder if there is a sense of feeling in this body that maybe they do want us to delete some of the alternatives from the ballot—that—if we ought not to deal with that question first and then come back to the issue of how to vote, because it may be that, by the time we're through with it, there won't be any alternatives to vote on. I doubt that that will happen, but it's a possibility, and what I'd like to ask you is if you would consider withdrawing your motion—at least temporarily—until we could work our way through some of these. And I have a motion at the clerk's desk which I would put, if you would put that.

DELEGATE AASHEIM: What would—Mr. Harbaugh, before I answer your question, will you yield to a question?

DELEGATE HARBAUGH: Yes.

DELEGATE AASHEIM: What is your motion?

DELEGATE HARBAUGH: My motion is to remove the—one of the items from the ballot; namely, the death penalty issue.

DELEGATE AASHEIM: I see. Now, may I answer Mr. Harbaugh?

CHAIRMAN GRAYBILL: Mr. Aasheim.

DELEGATE AASHEIM: I think we should determine this now, and if we decide later we have made a poor decision, we can always go back and reconsider—and—that is, if you vote favorably on my motion—because I feel that it's very important to know how we're going to put these propositions on the ballot—whether or not the negative people can vote on the alternates—because if the negative people cannot vote, I think all the alternates are dead because I'm not so sure that we're going to get the Constitution adopted—maybe by, say, a 55 to 45—I mean, let's assume we have 55,000 for and 45,000 against the Constitution. You see, if you eliminate those 45,000 people to vote on the alternates, you would have a very difficult time to get any proposition—to get the majority of the votes, so that's the reason I say we should decide this now and if we make an error we can always reconsider.

DELEGATE HARBAUGH: Thank you. I assume his answer is No.

CHAIRMAN GRAYBILL: I think it is, Mr. Harbaugh. (Laughter) Mr. Aasheim, will you yield to a question?

DELEGATE AASHEIM: I will.

CHAIRMAN GRAYBILL: I may join you later, but I think it's important that we discuss this carefully because I think it does condition everybody's mind to think about the real problem and I can see that you don't understand my side of it. For example, Mr. Aasheim, if you adopted ballot number 2—or the ballot—revised ballot number 1—then the Constitution itself would have, for instance, bicameral in it, a prohibition against gambling in it, and nothing about the death penalty in it. And if it got 51 percent of the votes, it would have automatically carried those three propositions. Do you follow me?

DELEGATE AASHEIM: Yes, I follow you.

CHAIRMAN GRAYBILL: So there's no possibility that the—that some decision isn't going to be reached on these if, in fact, you adopt the Constitution. Now, don't misunderstand me. I'm not sure that's a good argument for my side, but it might clear up your thinking about my side. Do you understand?

DELEGATE AASHEIM: Yes, I understand, and I understand the problems. But if you—if we—may I answer now?

CHAIRMAN GRAYBILL: Yes.

DELEGATE AASHEIM: That if we do this, the alternate is dead. There's no use having it on the ballot. It's a Hobson's choice because there's no chance for the alternate carrying at all, and I do believe that this—

CHAIRMAN GRAYBILL: In other words, it's the alternate that you think is dead.

DELEGATE AASHEIM: The alternate is dead if you do that.

CHAIRMAN GRAYBILL: Mrs. Eck has been up quite awhile.

DELEGATE ECK: Mr. Chairman, really I was going to say about what Delegate Aasheim just said, and that is, you know, suppose you got as many as 60 percent of the voters who voted for it, and then you would have to have of that 60 percent—you would have to have, you know, almost unanimously—you'd have to have 80 or 90 percent—my math's not that good—in order to get any one of the alternates on the ballot. Now, I can see a possibility—only I think that maybe it's too late to consider now—I mean, I think that what Delegate Graybill had to—was considering was the fact that we are really either voting for the new Constitution or we're voting for the old Constitution. If we're voting for the old Constitution, then why should you be allowed to amend the new Constitution? Now, we could have considered the possibility of making these alternates down here more as amendments which would apply to either the new Constitution or the old Constitution, which would mean that we would get a good either—a good bicameral or a good unicameral, along with the old Constitution; and they could say something about the death penalty or about gambling. But I think that no one is expecting it to come this way, and I wouldn't even really want to consider it, but I think that if we went for—I really think we'd be misleading people if we put it out and said you have to vote for the proposed Constitution in order to vote for the alternates, because, really, the alternates practically wouldn't have a chance. Thank you.

CHAIRMAN GRAYBILL: Very well. Now, the proposition is on Mr. Aasheim's motion that those who oppose the Constitution shall be allowed to vote on other propositions nevertheless. And before you speak, Mrs. Bates, the Chair would like to say that the Chair is persuaded that Mrs. Eck's and Mr. Aasheim's point that alternatives would have a difficult time is probably valid, and the Chair is also persuaded that Mr. Davis' point—and I think he made this point—is perhaps even more valid and that there's a sense in which as many people might vote for the new Constitution—no, let's see—there's a sense in which as many people might—yes—vote for the new Constitution as against it just to have—just to realize that if they don't, none of those propositions are going to be adopted. So the Chair is about to switch his mind and would be glad to support Mr. Aasheim's position; but if there are those who want to come to my defense, we'll hear them.

Mrs. Bates.

DELEGATE BATES: Mr. Chairman, as far as having two strikes against it, you could also have two votes for it if you had the bicameral in the body of the article in the Constitution and then again on the proposition. So this goes either way. I had another suggestion, and I don't know if it's possible. They said we were all-powerful. If we wanted to put these alternates—I don't know if it's possible, but usually doesn't an amendment just take simple majority? A Constitutional amendment? What if these were put on the—the alternates put on in such a form under—on the regular ballot, rather than on the Constitution itself—and this might—and I don't know if it's possible, but if we are as all-powerful as a body as I've heard stated here, it might be possible. Also, I wanted to say that Mr. Holland is ready to go to Australia with me because there they force them to vote. You have to vote—(Laughter) And so, I guess—one more thing while I'm up here, on Proposition 2 here, the example—I think rather than having "For" replacing one system over the other, there should always be an opportunity to vote either Yes or No on any proposition, and that would be my suggestion.

CHAIRMAN GRAYBILL: Very well, now, the question is on Mr. Aasheim's motion. Does anyone else care to discuss it—Mr. Aasheim's motion?

Mr. Wilson.

DELEGATE WILSON: Thank you, Mr. President. I have to agree with Mr. Aasheim. I don't think you can disenfranchise anyone from the privilege of voting and that if we assumed your proposition, this is just exactly what we're doing. And to further emphasize that, we're destroying the secret ballot, as been brought out here before. I think we have to give everyone a right to exercise this privilege of being able to vote on any question that's on the ballot, either for or against. If we get over this hurdle, I would have a suggestion to make that might clarify this, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Johnson.

DELEGATE JOHNSON: Mr. Chairman, I'd like to make a substitute motion for all motions pending. Am I in order?

CHAIRMAN GRAYBILL: I don't know. I don't know what you're going to move. (Laughter)

DELEGATE JOHNSON: I'd like to move for a proposition that would take us completely out of all this trouble, and I move that you—that the delegation consider my proposal as a ballot that's on your desks: "All articles will be presented separately for a Yes or No vote and any alternate proposals will be presented separately for a Yes or No vote."

CHAIRMAN GRAYBILL: Well, I'm not against taking that along with Mr. Driscoll's, but I think we're about ready. I haven't heard anyone support me yet; and if you'll all just quit voting, we might—or talking, we might be able to vote this one down and settle this one, in case we go this way. It seems to me if I allow yours, I've got to allow Driscoll's and three or four other propositions, including Harbaugh's; and I don't mind, but let's settle this issue. And Mrs. Payne says she supports me.

DELEGATE JOHNSON: Very well.

DELEGATE PAYNE: Mr. Chairman, I rise to support you, because we've been discussing this, and to answer Mr. Joyce, there is a way to do this. When we vote in a primary, we vote—they give us two ballots, a Democrat and a Republican—and those of us who are Republicans take the Republican ballot and dispose of the Democratic ballot. We could do it the same way with this because we could take the—those of us who are for the new Constitution could just take that ballot and then we would have these choices to vote on.

CHAIRMAN GRAYBILL: Mrs. Robinson.

DELEGATE ROBINSON: Mr. Graybill, I support your motion but didn't want to speak on it for fear you might lose it. But another way, in answer to Mr. Joyce's question—another way that it can be done is, you know, if you simply state if you're voting against the Constitution you do not vote on those other issues. The same thing happens when you have other ballots; and when you're supposed to vote for five candidates and you end up voting for six, the ballot is void. There are, you know, all kinds of ways that not following instructions can be handled.

CHAIRMAN GRAYBILL: Mr. Cate.

DELEGATE CATE: Mr. Chairman, I support the Chair and I'm not exactly sure why, but there's a very practical matter, I think, that deserves some consideration here. Looking at the first official ballot, the person who votes against the proposed Constitution is also going to go down the line—I mean, if he's permitted to vote on these other alternatives—and he's going to vote, probably, for a bicameral legislature, because that's what he voted for up above; he's probably going to vote against abolishing the death penalty, because that's what he voted for above; and he's probably going to vote against the Legislature authorizing gambling, because that's what he voted for above; and so those people who are for a unicameral legislature wouldn't stand a chance, because the vote of the people for the Constitution is going to be split on that issue. Those people who are for abolishing the death penalty wouldn't stand a chance, because those people who are for the proposed Constitution will be split; and likewise on the gambling issue. So, as a practical matter, what you're going to have is a Constitution with a bicameral legislature, without abolishing the death penalty, and without authorizing gambling, if you let the negatives vote. That's what's going to happen, so we might just as well put in a Constitution that has those propositions in it and forget about alternatives, if that's what we're going to do—if we're going to let the negatives vote.

CHAIRMAN GRAYBILL: Mr. James.

DELEGATE JAMES: Mr. Chairman, I'd like to speak in support of Mags Aasheim. I think his motion is in the spirit of the new Bill of Rights, the right of participation: "The public shall have the right to expect governmental agencies to afford every feasible opportunity for citizen participation on the operation of the government prior to the final decision." Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Kamhoot.

DELEGATE KAMHOOT: Thank you, Mr. Chairman. I am going to have to resist the motion because, as the story of the boy that went up to the wise man and had his hands cupped and he said, "Is what I have in my hand dead or alive?" The wise man said, "I think that lies within your hands." I think we have the answer to this lying right on our desks here; it's been here all the time. This was clearly provided by the Enabling Act that permitted this Constitutional Convention—is that all of these items can be put on the ballot, one at a time, each section. It's in our Enabling Act, and that's the Johnson Amendment, Resolution Number 16. I think that interlocking of one section to another might be much easier to work out, and more fairly. You'd stand a better chance of getting all of the things that you do want in the new Constitution that we do not have in our present Constitution. Maybe the answer would lie there—is to put these items—I think Mrs. Eck came quite close to it, and Mrs. Bates—that with these side items, why not put them all, section by section? We clearly can do this. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Very well, the question is on Mr. Aasheim's motion.

Do you want to close, Mr. Aasheim?

DELEGATE AASHEIM: Yes, Mr. Chairman. I would like to advise Mr. Kamhoot that if we adopt my amendment, you can still vote for Mr. Johnson's amendment. It wouldn't matter at all. But let me make one thing clear again. Assuming there were 100,000 people voting on the Constitution, for or against it. We're not going to have a very big majority for it, I'm quite certain—suppose 60,000 vote for it. Now, then, to go down on the alternate, you've got to have 51,000 votes for the alternate; and that's going to be pretty hard to get—out of 60,000 voters, to get 51,000 voters for either unicameral or bicameral, either on all these other propositions—you have to have 51,000 out of 60,000 votes—so that's why I'm urging that we get these negative votes down here voting also, in the hopes that they will vote positively on one of these alternate propositions. I think it's a must or the alternate proposals are dead.

CHAIRMAN GRAYBILL: Mr.—We're ready to vote. Do you want a roll call vote?

DELEGATE AASHEIM: Yes.

CHAIRMAN GRAYBILL: All right. So many as shall be in favor of Mr. Aasheim's motion, vote Aye; so many as are opposed, vote No. Has every delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Take the ballot.

Aasheim .... Aye

Anderson, J.H.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Nay
Bowman	Absent
Brazier	Aye
Brown	Aye
Bugbee	Nay
Burkhardt	Aye
Cain	Aye
Campbell	Excused
Cate	Nay
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Aye
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Absent
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Nay
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Nay
Mansfield	Nay
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Absent
Murray	Nay
Noble	Aye
Nutting	Aye
Payne	Nay
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Nay
Roeder	Aye
Rollins	Nay
Romney	Aye
Rygg	Absent
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Nay
Speer	Aye
Studer	Absent
Sullivan	Aye
Swanberg	Aye
Toole	Excused
Van Buskirk	Aye
Vermillion	Absent
Wagner	Aye
Ward	Absent
Warden	Aye
Wilson	Aye
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. Chairman, 80 delegates voting Aye, 11 voting No.

CHAIRMAN GRAYBILL: 80 delegates having voted Aye and 11 No, Mr. Aasheim's proposition prevails and we're going to let everybody vote on everything.

Now, the Chair would recognize Mr. Harbaugh, who was the first one up here with a proposal.

DELEGATE HARBAUGH: Maybe it would be—In the interest of saving some time—if I yielded to Mr. Driscoll and we could decide his motion, which—or does he have a motion? Mr. Driscoll—

CHAIRMAN GRAYBILL: Yes, I think I could, but I think it might be in the interests of time to do it your way.

DELEGATE HARBAUGH: All right, I'll put my motion then, if you would like to read it.

CHAIRMAN GRAYBILL: Mr. Harbaugh's motion is that we move to suspend the rules for the purpose of reconsidering the placing of the capital punishment question on the ballot in an alternative form. In other words, we have now directed Style and Drafting to place capital punishment on the ballot. He is moving to suspend the rules. If the suspension of the rules were allowed—and the specific purpose of his suspension is to pass a motion to the effect that we not place capital punishment on the ballot. In other words, he wants to reverse that action. If we suspended the rules and if we reconsidered and if we did reverse it, we would take capital punishment off the ballot as an alternative. You understand that there's nothing in the Constitution now prohibiting capital punishment and that the alternative of—is to be on the outside, so that it could be put in, and this would eliminate that possibility of its being put in.

Now, have I correctly stated your motion, Mr. Harbaugh?

DELEGATE HARBAUGH: Yes, Mr. Chairman, and if I might just speak to the motion to suspend the rules for a moment. I think that there has been plenty of discussion and debate here to demonstrate that there are some serious reservations about having a long list of things, as I think we have, on this ballot as side issues and that it would be very important for us, at this stage, to reconsider—at least this one issue as to whether or not it should be placed on the ballot. And if we could get reconsideration on this, I would speak to it.

CHAIRMAN GRAYBILL: Is there other discussion of the motion to suspend the rules?

Mr. Arbanas.

DELEGATE ARBANAS: Mr. Chairman, fellow delegates. I would like to enter the issue. Well, I'm sure you know where I stand on it. I'd like to talk about the—just the matter of having an alternate or not. I think I'd have to attest to you that, at least personally, on this issue—the death penalty—there is a tremendous amount of voter interest expressed that has been expressed to me personally and through the press and various other means, and I think that while I can understand the—Mr. Driscoll's motion with regard to just the straight thing—let's take our position, that's it. I think there is an advantage to the voter interest on some issues. I think this is the kind of thing that people—they are not going to discuss most of our issues on the street corner—you know, where people really stand around and fight with each other and get very interested. They are going to fight about these three issues, though. For them it might become more of an issue than the Constitution. I also think there is something to be said about taking away at least the illusion of being manipulated—you know, where you just have this one choice to make and that's it—"all or nothing" type thing. I think that there's something to be said there, that having some minor choices within the Constitution will take away that illusion of "it's all set, and I either take it or lose it". Thank you.

CHAIRMAN GRAYBILL: Is there other discussion?

Mr. Holland.

DELEGATE HOLLAND: Mr. Chairman, I want to point out to the Convention that what the Committee on Style and Drafting was worried about was on side issue number 1, that is on whether we have a unicameral or a bicameral. What we feared was that we would have less than a majority for either one of these propositions. Thus, we might wind up with a vote for a proposed Constitution without a legislature. Now, if such a thing happened, I don't have the foggiest notion of how the government would proceed. We come down to the death penalty and we come down to the gambling, we don't have the same crucial item. For instance, if neither 3-A or 3-B—for abolishing the death penalty or against abolishing the death penalty—gets less than 51 percent, it doesn't mean a thing to the Constitution; we still have a functioning Constitution. The same way with the fourth proposition—4-A, 4-B—against gambling or for gambling—if either one gets 51 percent, we don't have any worries at all; we've still got a functioning Constitution. The only way we can get into a jackpot is if the first proposition—that is, the first side issue, the unicameral or the bicameral—fails. That is where this Constitution can get into indescribable trouble. And we get down here to the death penalty, it would seem to me that in—the Reverend's motion to take it out doesn't mean a thing at all, because if the voters don't vote to take it out, then it's going to be automatically eliminated. We're not going to have any abolition of the death penalty anyhow. So if we don't get 51 percent, it doesn't mean a thing in the world. I realize he's made his motion, and I'm not going to make another motion to interfere with it; but I'd like to point out to the body, we've got to get down to proposition number 2 and decide what to do about this legislative thing, because that's where we're in trouble. And whether or not we knock out the death penalty at this spot doesn't mean a thing, because it would leave it in; and whether it got a majority or didn't get a majority, we'd still have the same old Constitution.

CHAIRMAN GRAYBILL: Is there other discussion?

Mr. Wilson.

DELEGATE WILSON: Mr. President, would Mr. Schiltz yield to a question?

DELEGATE SCHILTZ: I yield.

DELEGATE WILSON: I'm sort of at a loss here, Jack, listening to the discussion. A vote against the Constitution, you say, leaves us without any legislative body. Wouldn't it be your thinking that if the proposed Constitution fails, we revert back to the present Constitution?

DELEGATE SCHILTZ: My answer, Mr. Wilson, is that we could cover it in the transition and say that if—and that's what Illinois did that—about the—they submitted not the bicameral-unicameral, but the question of whether there should be single-member districts or the old running-at-large business, and they said that if that issue fails, then they go back to the original Constitution. And we could cover that in the same way, but it's our feeling—it's the feeling of the Style and Drafting Committee that there was a genuine interest in the house—or in the chamber in having a new and revised legislature that met once a year and that had a little more—well, it had different numbers, for one thing, and it had a little more flexibility for extra sessions or special sessions, and that we certainly—the reaction we got from the debate was that they would not want to go back to the 1889 system, that one of these two propositions should go in so we do have an improved Legislature. But we—the short answer is yes. In transition we could cover it so if one of them failed, we'd be back to the '89.

DELEGATE WILSON: Well, then, I submit that, with a little drafting change, this would be possible and we wouldn't be without a legislative body, however desirous we are of the improved one. This is what we're talking about here. We are talking about a new Constitution that has these different changes in it; and it does have the changed Legislative Article and it has several other articles that are changed; but if we don't adopt them, we go back to the old—or the present Constitution.

CHAIRMAN GRAYBILL: Now, Mr. Wilson, the Chair fell asleep up here, but I think we've gotten far from the motion to suspend the rules. So if you have anything further to say about the motion to suspend the rules, we'll hear it.

DELEGATE WILSON: I would be against suspending the rules, Mr. Chairman. We debated at length on this the other day; and if we open it up again, I can see where we'll be debating for many, many hours further. I'm against suspension of the rules.

CHAIRMAN GRAYBILL: Very well. The issue is on Mr. Harbaugh's motion to suspend the rules to consider the matter of the capital punishment proposed amendment. Is there other discussion of the suspension of the rules?

Mr. Champoux.

DELEGATE CHAMPOUX: I am also against suspending the rules. I think in this day and age we hear a lot about participatory democracy, and the people have sent us here—yes, and we do represent the people—but here's an opportunity to get the people involved directly in things that we are all quite unsure of. I imagine when we see these votes, they're going to be so close that is it really going to tell? And this is a good opportunity to get the people involved, have them know that they are—we are concerned about them and their views; and therefore I think that we should keep these—find some way of keeping these alternatives on the ballot; and I don't think that there are that many of them, personally. I'm against suspending the rules for that.

CHAIRMAN GRAYBILL: Very well, the issue is on suspension of the rules on Mr. Harbaugh's motion so that we can deal with the issue of whether or not to remove capital punishment.

Do you need to close on the suspension or argument?

DELEGATE HARBAUGH: I'd like to ask for a roll call vote—

CHAIRMAN GRAYBILL: Right.

DELEGATE HARBAUGH: —and I'd like to point out that when we voted on this first, the vote was 48 to 42 on the proposed language that Mr. Arbanas proposed; and it seems to me that if the public splits in anywhere near the same proportion, there is absolutely no possibility of the death penalty issue being decided one way or another on the ballot.

CHAIRMAN GRAYBILL: The Chair would like to observe it's going to be decided one way or the other, but it might not be decided affirmatively.

Mrs. Bates.

DELEGATE BATES: Yeah, Mr. Chairman. I was just discussing this again, and I was wondering if it would be possible to include the same—like we have in the old Constitution—in the new as far as the death penalty and gambling—

CHAIRMAN GRAYBILL: All right—

DELEGATE BATES: —is concerned.

CHAIRMAN GRAYBILL: —but, Mrs. Bates, you are not on the subject.

DELEGATE BATES: Yes, I am. Just a minute.

CHAIRMAN GRAYBILL: No, you can make a new motion to suspend the rules for a broader purpose, but Mr. Harbaugh's purpose is to suspend the rules for the purpose of, then, on reconsideration, taking this away from the ballot proposition; and you're now suggesting we add something else to the Constitution.

DELEGATE BATES: No, I realize this. And then if you included the old wording in it, then you could vote in the general election—save these for the general election as an amendment—which would only, then, require a simple majority on both of these issues, which would be a—

CHAIRMAN GRAYBILL: Mrs. Bates—

DELEGATE BATES: —possibility.

CHAIRMAN GRAYBILL: —you mentioned that possibility a while ago, and the Chair hasn't researched it, but we would either have to follow the present constitutional method of getting a constitutional amendment on, which I think is impossible at this stage of the game, or we'd have to wait till this Constitution was adopted and go with the new ones. But I know that somebody on the General Government—Mr. Etchart, you can't—there's no such thing as a constitutional—is there a constitutional amendment by initiative? Doesn't the Legislature have to propose it first?

DELEGATE ETCHART: At the present time it has to be proposed by the Legislature, but we have—in the new Constitution, we have it by initiative.

CHAIRMAN GRAYBILL: Right. So, Mrs. Bates, unless you could get to the next Legislature and persuade them to put it on the ballot for the second time around, I don't think it's going to work. Now, the issue is on Mr. Harbaugh's motion to suspend the rules. He's asked for a roll call vote. All those in favor of suspending the rules, vote Aye; all those opposed, vote No. Has every delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, cast the ballot.

Aasheim	Nay
Anderson, J.H.	Nay
Anderson, O.	Nay
Arbanas	Nay
Arness	Aye
Aronow	Nay
Artz	Nay
Ask	Nay
Babcock	Nay
Barnard	Nay
Bates	Nay
Belcher	Nay
Berg	Aye
Berthelson	Nay
Blaylock	Nay
Blend	Nay
Bowman	Nay
Brazier	Aye
Brown	Nay
Bugbee	Aye

Burkhardt	Nay
Cain	Nay
Campbell	Excused
Cate	Nay
Champoux	Nay
Choate	Nay
Conover	Nay
Cross	Nay
Dahood	Nay
Davis	Nay
Delaney	Aye
Driscoll	Aye
Drum	Nay
Eck	Aye
Erdmann	Nay
Eskildsen	Absent
Etchart	Aye
Felt	Nay
Foster	Nay
Furlong	Nay
Garlington	Absent
Gysler	Nay
Habedank	Nay
Hanson, R.S.	Nay
Hanson, R.	Nay
Harbaugh	Aye
Harlow	Nay
Harper	Nay
Harrington	Nay
Heliker	Nay
Holland	Nay
Jacobsen	Nay
James	Nay
Johnson	Nay
Joyce	Nay
Kamhoot	Absent
Kelleher	Aye
Leuthold	Nay
Loendorf	Absent
Lorello	Nay
Mahoney	Absent
Mansfield	Nay
Martin	Nay
McCarvel	Nay
McDonough	Nay
McKeon	Nay
McNeil	Nay
Melvin	Nay
Monroe	Absent
Murray	Nay
Noble	Nay
Nutting	Nay
Payne	Aye
Pemberton	Nay
Rebal	Nay
Reichert	Nay
Robinson	Nay
Roeder	Nay
Rollins	Nay
Romney	Nay
Rygg	Aye
Scanlin	Nay
Schiltz	Nay
Siderius	Nay
Simon	Nay
Skari	Nay
Sparks	Nay
Speer	Nay
Studer	Absent
Sullivan	Nay
Swanberg	Nay
Toole	Excused
Van Buskirk	Nay
Vermillion	Nay
Wagner	Nay
Ward	Absent
Warden	Nay
Wilson	Nay
Woodmansey	Nay
Mr. Chairman	Nay

CLERK HANSON: Mr. Chairman, 12 delegates voting Aye, 78 voting No.

CHAIRMAN GRAYBILL: Very well, 12 delegates having—voting Aye and 78 voting No, we have decided not to suspend the rules for the purpose of removing capital punishment. Now, Mr. Driscoll, I realize your proposition is similar to that, but it is broader. If you want to put it, we'll debate it; or if you want to hold it, we'll wait.

DELEGATE DRISCOLL: No, I would like to put it, Mr. Chairman. I don't think it requires any debate. I would ask for an immediate vote. I would move to suspend the rules for the limited and express purpose of presenting the Constitution to the electorate with no alternatives. I don't think it calls for a great deal of debate. Just pass it, and then we'll get rid of the unicameral. (Laughter)

CHAIRMAN GRAYBILL: Well, the Chair observes that if we adopted it, we'd still have to find out which one went in; but I suppose we could do that. Very well, Mr. Driscoll has proposed to suspend the rules in such a manner that we could remove all three alternatives to the ballot. That involves the Legislative Article, the Bill of Rights Article, and the General Government Article; but we could suspend the rules to so do that. Is there

discussion of the motion to suspend the rules?
Mr. Kelleher.

DELEGATE KELLEHER: Speaking only on the motion to suspend, in our committee we debated this entire whole area 6 hours yesterday afternoon and last night, and without going into detail about the fact that those who want to get gambling may get a lot of their proponents to get in there and vote for gambling and get it so—the vote so heavy there that the Constitution itself could fail. And, of course, they might not realize that their gambling fails, too; but they still might vote for gambling and not the Constitution and cause it to fail. And after we visited with our committee again this morning and after listening to many arguments from many wise people—not just lawyers, but wise people—nonlawyers—I am inclined to go along with Mr. Driscoll—to think that this is probably the only safe way of doing it. I am afraid that playing this numbers game, that anything below the original Constitution is going to fail. It's going to have to have a tremendous majority. In Illinois, over 57,000 people voted on the alternates and did not vote on the Constitution. And on their Legislative Article, 246,000 did not vote on the Legislative Article, and it just barely carried. They just—they gambled—but they had the old Constitution to go back on, and we don't. And our consultant—I'm not going to talk—maybe Mr. Schiltz would like to address himself to this—but our consultant said it would be a terrific job to try to figure out if both unicameral and bicameral failed and we went back to the old Constitution—we'd have to decide what articles are affected. You know, we didn't follow the same order in the new Constitution, and this would be a terrific problem.

CHAIRMAN GRAYBILL: Is there other discussion of the motion to suspend?
Mr. Schiltz.

DELEGATE SCHILTZ: Well, I—it isn't directly on that, but a question was more or less directed to me, and I feel I should say that Mr. Cromwell does not take a legal position with our committee in any respect. I think what Mr. Kelleher was talking about was whether or not we put in the constitutional proposal that Mrs. Reichert had that there be several alternatives and we tried to pick what would stay in in the old Constitution and be added to that, and he did address himself to that.

CHAIRMAN GRAYBILL: Mr. Driscoll—Mr. Holland.

DELEGATE HOLLAND: Mr. Chairman, may I direct an inquiry to the Chair?

CHAIRMAN GRAYBILL: Yes, sir.

DELEGATE HOLLAND: Is the sense of Mr. Driscoll's motion that, if we suspend the rules for the purpose of considering removing all these alternatives from the ballot, that we also can do any of the intermediate steps—that is, if the rules are suspended we can retain some, keep some, and modify some?

CHAIRMAN GRAYBILL: The Chair would rule that the—that he is proposing to suspend the rules, which does involve the Bill of Rights, simply because that's the one to which we tacked the proposal to put the capital punishment on the ballot, the Legislative and the General Government, but only for the purpose of putting in or out those three—that is, only for the purpose of handling the problem of the ballot alternative. Now, I realize that in the General Government and Bill of Rights, that's pretty easy; but I agree with you that in the Legislative, that's pretty tough, because I don't know how you decide that issue without coming to the other proposition; namely, which does go in.

DELEGATE HOLLAND: Well, my inquiry is this. If the rules are suspended for this purpose and the body then decides to take one of these alternatives on the Legislative and put it in with the other alternative to the side, would this be in order under the suspension of the rules proposed by the motion of Mr. Driscoll?

CHAIRMAN GRAYBILL: I would think what would be in order is—we would then go—let's take the easy one first—to Bill of Rights and we decide all over again what we just decided on Mr. Harbaugh, and we'd decide to do it or not to do it, and then we'd go to General Government and we'd decide whether to put—we've got the language—well, we'd decide whether to put language in—see, we've got the language "there shall be no gambling"—that's in both of them. We'd decide whether to put the language "except by the Legislature and the people" in or to throw it away. And then we'd go back to the other, and I don't think we'd have to debate unicameral and bicameral individually, but I think we would then have to decide whether we're going to put unicameral or bicameral on the ballot, because you can't have a—you can't do away with the alternatives while you've still got both of them in the pot.

DELEGATE HOLLAND: May I make a substitute motion to suspend the rules?

CHAIRMAN GRAYBILL: Well, I'll hear it. I don't know whether you can make one.

DELEGATE HOLLAND: All right. I'll make a substitute motion to suspend the rules for the purposes of considering the entire question of the three side issues on the ballot; namely, the unicameral-bicameral question, the death penalty question, and the gambling question—to consider whether we should accept them as they are, modify them in any particular, or to completely remove them from the ballot. In other words, so we can fully discuss all of the various—fully discuss and vote and make motions upon all of the various alternatives that are open to us as a Committee of the Whole.

CHAIRMAN GRAYBILL: All right, Holland's motion—substitute motion—is to suspend the rules regarding these three areas—that is, the three areas that are now the ballot alternatives. But in addition to just removing them, which was the word Mr. Driscoll used, Mr. Holland wants to enlarge the suspension so that we may remove, modify, or otherwise deal with—is that what you said?

DELEGATE HOLLAND: Yes. Otherwise—modify or otherwise rearrange or deal with the three subjects.

CHAIRMAN GRAYBILL: I think "otherwise deal with" covers it.

DELEGATE HOLLAND: All right.

CHAIRMAN GRAYBILL: In other words, we'll be able to do anything we want with those three areas, in addition to remove. We can remove, modify, or otherwise deal with those three areas if we adopt your proposal. Is that what you're proposing?

DELEGATE HOLLAND: That's my proposal, Mr. Chairman.

CHAIRMAN GRAYBILL: All right, that's Mr. Holland's proposal.

DELEGATE HOLLAND: Mr. Chairman, I make this motion not to interfere with Mr. Driscoll's motion, but to include that in. It would seem to me the sense of the body, from the addresses made to the body this afternoon, that something must be done. Just what it is, I'm not sure that the body has made up its mind; but I think at this time we should suspend the rules so we can do what we have to do, whatever the body has in mind; and if we do suspend the rules at this time for this purpose, we can then attack the problem and solve it in the manner that the majority wishes to do so.

CHAIRMAN GRAYBILL: All right, now, the Chair wishes to caution the body that in the Chair's opinion you can arrange a ballot in some form under Style and Drafting's proposals without doing this. I don't think we're at any impasse, Mr. Holland; and I don't think we should lead them to believe that; but I'm perfectly willing to put the motion.

Mr. Harper.

DELEGATE HARPER: Mr. Chairman, I'd like to resist both these motions for now. I don't think we've discussed all the different things that we could do. For example, I have yet to be convinced that we could not write a Legislative Article that had everything in it. We did this in committee on purpose so that everything was exactly the same on almost—in almost every section. Only the sections that you would vote on would be "shall it be unicameral or bicameral"; and if the unicameral did not pass and the bicameral did not pass, you'd fall back only on that much of the present Constitution, which is bicameral and which could be, I think, as far as I can see, fitted in at every point; but you'd have the big bulk of your Legislative Article and we'd have—we could set up kind of a choice that we want to on the ballot without losing it all. And there may be other suggestions. I don't think we need to throw in the sponge yet. I think we can work out a good ballot.

CHAIRMAN GRAYBILL: Mrs. Babcock.

DELEGATE BABCOCK: Mr. Chairman, this is just a suggestion. Has anyone thought of having three boxes with "Do you prefer", at the top; "vote for one—the old Constitution, the new Constitution with a unicameral, or the old Constitution with the—or the new Constitution with a bicameral"?

CHAIRMAN GRAYBILL: Mrs. Babcock, if none of them got 51 percent, are we out? (Laughter)

Mr. Drum.

DELEGATE DRUM: Mr. Chairman, I

also rise to resist Mr. Holland's motion. It would seem to me that we are going to have to be specific. He said in an earlier statement that the big hangup is on the placement of the unicameral-bicameral; and I think if we're going to suspend the rules, we should suspend it for the purpose of discussing, debating, and deciding upon one issue at a time, because you can see the discussions here—one man is up on the death penalty and the next one's up on the bicameral or the unicameral, and it's a little hard for the Chair to stay abreast of what is happening. Now, about a month ago, I remember discussing with some of the legislative people and at that time they talked with the Chair that at some point this body was going to take a vote on unicameral versus bicameral. I, for one, am not nervous about either way. I think the State of Montana is going to go ahead and we're going to have a good state with either system of government. But I don't see how we can go to the people without ever having taken a vote on either bicameral or unicameral; and I would like to remind the Chair and Mr. Aasheim that at that time we were assured that there would be vote taken by this body; and it would look to me like, at this point, the body should take a vote and the one that gets the most votes would go into the Constitution and the one that gets the least votes would become the alternate and we could move on and then move on to these other two issues that are on the ballot. So, therefore, I oppose Mr. Holland and make a substitute motion that we vote on bicameral-unicameral; the majority that wins the majority—the issue that wins the majority will be the one that is placed on the Constitution.

CHAIRMAN GRAYBILL: Now, wait a minute, Mr. Drum. I liked everything you said till that last. Can't we decide this issue? And I'll come back to you if you want to, but let's vote on these. We don't vote on these things before we make substitute motions, we're in real trouble—we don't know what we think. Pardon?

DELEGATE DRUM: I bow to the wisdom of the Chair and withdraw my motion.

CHAIRMAN GRAYBILL: Mr. Murray.

DELEGATE MURRAY: Mr. Chairman, I don't like to delay this thing any longer, but I rise to resist the motion to suspend the rules and the motion to put the various articles on the ballot in the alternative. I think that we're just rehashing the entire thing by suspending the rules, and I think that it is absolutely impossible to follow the—from a practical standpoint and a drafting standpoint, within the limitations of time we've set upon ourselves, to do what Mr. Johnson would like to do. And I submit that the revised ballot number 2, for example only, which is the last one that we have from Style and Drafting, is the most practical alternative and that we should decide bicameral or unicameral is the issue to be placed in the Constitution and proceed with this matter.

CHAIRMAN GRAYBILL: Very well, now. The issue, however, is on Mr. Holland's motion to suspend the rules so that we can remove, modify, or otherwise deal with all three ballot alternative issues.

Mr. Holland.

DELEGATE HOLLAND: Mr. Chairman, regarding suspending the rules, I didn't want to make any change, but I just wanted to do it—there's no—in my opinion, the—or in the opinion of Style and Drafting, ballots number 2 and number 3 are substantive changes, which would require suspension of the rules and this body reconsidering them. My purpose in moving for suspension of rules was so we could start taking on the issues that Mr. Drum has just raised, one by one. And my reason for rising to suspend the rules for the whole thing was so we wouldn't have to keep suspending the rules every 10 minutes. Now, it's my impression—and you can ask for Mr. Schiltz if there's any difficulty—that we can't consider ballot number 2 without suspending the rules because it amounts to substantive changes, which the Style and Drafting can't recommend to this body without a suspension of the rules and reconsidering the whole item. I made the motion only to save time, to lay the whole thing out on the table so we can start taking motions to handle the difficulties we're in.

CHAIRMAN GRAYBILL: Well, Mr. Holland, maybe I should speak to that. The Chair does not take that same view. The Chair takes the view that Style and Drafting has the substantive right to propose a ballot form, and whether it's the best or the only is another matter. And I'm certainly going to rule that Style and Drafting has a perfect right to suggest either one, two, or three; and I don't think that requires any suspension of the rules. Style and Drafting has a substantive right to propose a ballot alternative. Now, if Style and Drafting had proposed only unicameral-bicameral and gambling and had proposed dropping abolition, that might have required a change because we've already told them these three things, but the Chair is going to rule that we can go on any one of these three or any other ones that Style and Drafting proposes, so long as they give us three ways to, in some fashion, present some kind of an alternative. But I don't mind putting your motion anyway.

DELEGATE HOLLAND: My point, Mr. Chairman, is that ballot number 2 inherently requires that we have to suspend the rules in all three subdivisions in order to comply with ballot number 2.

CHAIRMAN GRAYBILL: Are you talking about—let's talk about—you're talking about revised ballot number 2, which is really number 3?

DELEGATE HOLLAND: Let me take a look again. Yes. In order to adopt number 2, we would have to get—we would have to suspend the rules to have the body determine whether or not they want to put unicameral or bicameral up into the body of the proposition.

CHAIRMAN GRAYBILL: Well, all right. The Chair takes an entirely different view of that. I think that you people are a substantive committee for proposing the ballot and you do have to propose some form of alternative; but if you propose number 3, we can debate it and we can amend it without suspending the rules. We don't have to do—we—this body has certainly not in any way indicated to your committee, and the committee made it quite clear we weren't supposed to, the detailed method by which this alternative is going to be presented. That's up to you to come back with. My only real difficulty with your committee is that you've come back with nothing yet and you've just asked us to help you. But, I mean, once you decide which one you're going to propose, we'll debate it. And if you don't decide pretty soon, we're liable to debate it anyway and decide it.

DELEGATE HOLLAND: (Inaudible)—probably yield to Mr. Schiltz, but it was my—it was the understanding in my sense of the—what I understood happened in the committee—while the form could be proposed by the Style and Drafting, picking the unicameral or bicameral, if you put up in the body, would be had—would be a change that this body itself would have to do; and that's why I moved for suspension of the rules.

CHAIRMAN GRAYBILL: Well, but this body wants you—if Style and Drafting will just take the bull by the horns, like the poor Rules Committee does every day, and propose one or the other, this body will make short work of deciding which one they want. They'll either put that one or amend it and put the other one. But you see, at the moment you haven't given us anything except an alternative ballot. But—So, I don't agree with you that we have to wait—or that we have to suspend the rules to do this ballot business, but I'm perfectly willing to suspend the rules for what I think Mr. Driscoll's purpose is; namely, to do away with those ballot alternatives. Isn't that right, Mr. Driscoll?

DELEGATE DRISCOLL: That's right.

CHAIRMAN GRAYBILL: Mr. Driscoll's proposal is to do away with them, and that's what he said—"remove". Now, you've said "remove, modify, or otherwise deal with", and we can either put yours or you can withdraw it; it doesn't make any difference. And we'll decide it one way or the other. But if we decide for yours, I'm sure Mr. Driscoll's motion is going to be to remove them. Now, is there other discussion about Mr. Holland's motion to remove, modify, or otherwise deal with?

(No response)

CHAIRMAN GRAYBILL: Very well, I'll put that question. All right; all in favor of Mr. Holland's motion to remove—to suspend the rules so that we can remove, modify, or otherwise deal with the three ballot alternatives, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

CHAIRMAN GRAYBILL: All right, it's defeated. Now, we're back on Mr. Driscoll's. Is there any more discussion of Mr. Driscoll's, which is to suspend the rules for the pure and only purpose of removing those alternatives, either all together or one-two-three?

Mr. Driscoll.

DELEGATE DRISCOLL: Mr. Chairman, I close and ask for a roll call vote.

CHAIRMAN GRAYBILL: Very well. All right. Very well; all in favor of Mr. Driscoll's motion to suspend the rules so that we may remove the three alternatives or one, two or three of them, vote Aye; and those opposed, vote No. Has every delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, cast the ballot

Aasheim	Nay
Anderson, J.H.	Nay
Anderson, O.	Nay
Arbanas	Nay
Arness	Absent
Aronow	Nay
Artz	Nay
Ask	Nay
Babcock	Nay
Barnard	Aye
Bates	Nay
Belcher	Aye
Berg	Aye
Berthelson	Nay
Blaylock	Nay
Blend	Nay
Bowman	Nay
Brazier	Aye
Brown	Absent
Bugbee	Nay
Burkhardt	Nay
Cain	Absent
Campbell	Excused
Cate	Nay
Champoux	Nay
Choate	Nay
Conover	Nay
Cross	Nay
Dahood	Nay
Davis	Nay
Delaney	Aye
Driscoll	Aye
Drum	Aye
Eck	Nay
Erdmann	Nay
Eskildsen	Aye
Etchart	Aye
Felt	Nay
Foster	Nay
Furlong	Nay
Garlington	Nay
Gysler	Aye
Habedank	Nay
Hanson, R.S.	Nay
Hanson, R.	Nay
Harbaugh	Aye
Harlow	Nay
Harper	Nay
Harrington	Nay
Heliker	Nay
Holland	Aye
Jacobsen	Nay
James	Nay
Johnson	Nay
Joyce	Nay
Kamhoot	Nay
Kelleher	Aye
Leuthold	Nay
Loendorf	Nay
Lorello	Aye
Mahoney	Aye
Mansfield	Nay
Martin	Nay
McCarvel	Nay
McDonough	Nay
McKeon	Nay
McNeil	Aye
Melvin	Nay
Monroe	Aye
Murray	Nay
Noble	Nay
Nutting	Aye
Payne	Aye
Pemberton	Nay
Rebal	Aye
Reichert	Nay
Robinson	Nay
Roeder	Aye
Rollins	Aye
Romney	Nay
Rygg	Aye
Scanlin	Nay
Schiltz	Nay
Siderius	Nay
Simon	Nay
Skari	Nay
Sparks	Nay
Speer	Nay
Studer	Nay
Sullivan	Nay
Swanberg	Nay
Toole	Excused
Van Buskirk	Nay
Vermillion	Nay
Wagner	Nay
Ward	Aye
Warden	Nay
Wilson	Nay
Woodmansey	Nay
Mr. Chairman	Nay

CLERK HANSON: Mr. Chairman, 24 delegates voting Aye, 71 voting No.

CHAIRMAN GRAYBILL: Very well, 24

having voted Aye and 71 voted No, Mr. Driscoll's motion is defeated. Now, Mr. Drum, you're on my list (Laughter) but Mr. Johnson—Mr. Drum, I have two lists; don't worry. (Laughter) Mr. Johnson had a motion and he wanted to make it awhile ago, and I think I should let him have the chance next. We got to get these things either decided or out of the way.

Mr. Johnson.

DELEGATE JOHNSON: Mr. President, thank you. Ladies and gentlemen, you all have my proposition on your desk. It was made out in the form of a resolution to start with, but the Chair has agreed to let me present it as an amendment or a motion, and that's what I have done. Now, the sense of this would be the ballot would—presented—on the ballot would be presented all articles separately for a Yes or No vote, and also the alternative proposals would be presented in the same manner for a Yes or No vote. This is—a very simple way to present it. There would be no question what they were voting for or voting on, 'long as they'd read—in which—excuse me—which they'd have to do in any case—familiarize themselves with the content. Now, this is perfectly okay under the Enabling Act. I know that it would take a lot of time and work on the part of the Style and Drafting Committee, and I'm sorry about this. I wish that some of us had discussed this 2 months ago—well, the whole program, for that matter—on how we were going to put it on the ballot and had decided at that time. We would have—not have had this difficulty at this time, but I—unfortunately, that wasn't the case, so now the problem comes up. It would certainly cost a little money, probably, for the Style and Drafting to work this out—and a few days after the rest of us had left here, probably. I don't know just exactly how tough the mechanics would be, but I have it on good advice from several people that are supposed to know these things that this is very possible and legal in all aspects. I'd like to point out, since there are going to be some differences if the—or overlapping conflicts, I should say. In case one of the articles or more should fail in the election, our present Constitution article would have to take over in that department and there would be some overlapping. This would be the hardest problems to contend with, and—but they're not impossible. I'm sure of this. It would take some time. Now, for instance, on the radio today—there were several people who heard this guy discuss it at noon—that the United States Supreme Court has struck out the 1-year residency requirement in Tennessee; and that's going to cover all the rest of the states, apparently; and that makes our own that we just passed last week obsolete; and, so, there's probably going to be some more of this. There seems to be an awful lot of legislation going on in the U.S. Supreme Court and other state Supreme Courts that we're going to have to contend with, so there's going to be quite a number of these changes or overlapping conflicts of meaning and intent. Now, you know, we're going to have to live with this new Constitution, if it's accepted, for possibly a long time—70 or 80 years—maybe 50, the way things are traveling so fast now—but it should be a good long time; and I think whatever little extra time it takes or expense, we should be willing to abide by it. We want a good Constitution. There isn't a person here that doesn't, and I'm willing to sacrifice a little more time, if it would fall on me—of course, in this particular point, why, it would be the Style and Drafting, as I see it, that would take the brunt of it; and I'm sorry for that, but I can't help it. Well, I think that's probably all I have to say, Mr. Chairman, and thank you very much. Thank you, ladies and gentlemen, for listening.

CHAIRMAN GRAYBILL: Very well, those of you who have Mr. Johnson's Resolution 16 before you, the Chair will take it is the sense of his motion that the material presented on lines 23 through 26 is his motion; namely, that the ballot be drawn in such a manner that all articles will be presented separately for a Yes or No vote and all alternative proposals will be presented separately for a Yes or No vote. Is there discussion of Mr. Johnson's proposal?

Mr. Champoux.

DELEGATE CHAMPOUX: The only thing I'm interested in at this point—it's an intriguing idea—however, somewhere back in my reading, I think I've heard that this method has been used a number of times and it's failed quite frequently. Does anybody have the research on this? Does anyone—can they pull it out of their head or—have we got any research on it?

CHAIRMAN GRAYBILL: Mr. Murray.

DELEGATE MURRAY: Mr. Chairman, I don't know where it has failed. I only know where it has succeeded, and that was in Pennsylvania. But Pennsylvania had a limited convention, not an unlimited convention, such as we had; and I understand they only had five propositions in the form of amendments on the ballot; but they were of this nature as he is suggesting. Now, nobody else that I know of has submitted it this way that has been successful.

CHAIRMAN GRAYBILL: Mrs. Blend.

DELEGATE BLEND: Mr. Chairman, as Mr.—or Delegate Johnson spoke, I tried to visualize what would happen in the voting booth. In the first place, each registered voter will receive a complete, detailed copy of this proposed Constitution with explanatory comments beneath it, and this will be in two colors. Now, supposedly, one would read this and digest it and make decisions at home or in the company of friends. Now, if one were to go through the proposed Constitution at the voting places, it would occur to me that each individual could spend possibly up to an hour doing this. I wonder, if they thought that the proposed detail would be at the voting place, if they would ever look at the copy they received at home. I think that it would take us weeks to vote if we were to follow such a proposition. I can't believe that a voter, when they got through the first third or half of it, would be inclined to go on, because of the time that it was taking. It might solve a problem for the delegates here today, but I don't think it would solve a problem for the voters or that it would bring out a better—51 percentage of vote on each section of the proposed Constitution, and I therefore would not be in favor of Mr. Johnson's motion. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mrs. Warden.

DELEGATE WARDEN: Mr. President, there is no way that the average voter would go through and take the time that would be necessary on this. I have found many times that when they even had three amendments on the ballot, they will look at them and say, "That's too many"; and I would strongly urge that we defeat the motion of Mr. Johnson.

CHAIRMAN GRAYBILL: Mr. Romney, you were up.

DELEGATE ROMNEY: Mr. Chairman, I wanted to answer a question made by Delegate Champoux, but I guess he's left the floor. As I understand it, the State of Hawaii also used this method and had 22 or 23 sections; and they passed most of them, but not all. Argument was that Hawaii being a new state and having adopted a constitution a few years previously was ripe for such a use of the amendment system. Now, there's no question but what our Constitution presently provides for use of the amendment system. It's rather a shame that it is advanced at this time, because of the situation where many items are—would be out of place and, if some of them should be defeated, there might not be any way of handling them, such as the Chairman indicated this morning with respect to the veto of the Governor; and I don't know just how that could be handled, although perhaps the Committee on Style might be able to figure it out. I do think that this would have been a splendid way of handling it, but at the present time, I'm afraid that it won't work.

CHAIRMAN GRAYBILL: Very well, the issue is on Mr. Johnson's proposal that we present each article and alternative for a Yes-No vote separately.

Mr. Wilson.

DELEGATE WILSON: Mr. President, I think it is the concern of all of us here that we have several articles in our proposed new document that we would like to see passed. We have—some of us have some reservations on some of the other articles. I think this is one method where you can get the desirable features in the new document passed by the people. It may be that they would—could be put on the ballot as committee proposals and cover each—it wouldn't have to be each section—and possibly that these methods could be explored towards a shorter form of putting it on the ballot; but I think this is one of the more desirable features of Mr. Johnson's proposal, that there is several articles in the proposed new document that I'm sure the people want and would like to have, there is some that there's quite a little question on, and that they may turn down the whole document for the same specific reason that these are included in the whole article. I think that Mr. Johnson's motion has a lot of merit, if there's any way of approaching it.

CHAIRMAN GRAYBILL: Very well, the issue is on—

Mr. Kamhoot, do you want to talk?

DELEGATE KAMHOOT: Very briefly, Mr. President.

CHAIRMAN GRAYBILL: Very well.

DELEGATE KAMHOOT: There's been quite a lot of resistance to this on the—by using the evidence that there would be too much on the ballot. I would question this, because we just decided in this Convention that there would be—an unlimited number amendments would be permitted on the ballot in the future, so what would be the difference—talking about 13 now or 13 or 15 or 20 sometime in the future on our ballot—so I don't think this has much validity. I don't see why that each one of these sections must be printed in its entirety, as has been suggested, when certainly the people that are going to vote for this Constitution or against it are not going to have the whole Constitution printed on their ballot, so they're not going to read it that way, so why would they necessarily have to read all of it article by article? Why couldn't they brief themselves beforehand, as they must do when they go to the polls to vote on this situation as we have it here. So, it seems like, if it could possibly be correlated between one article and the other, that we really should follow this route. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Ask—Mr. Artz.

DELEGATE ARTZ: Would Mr. Johnson yield to a question?

CHAIRMAN GRAYBILL: Mr. Johnson?

DELEGATE JOHNSON: I yield.

DELEGATE ARTZ: This morning, Torrey, there was some discussion that possibly it would be impossible to correlate the new and the old, in case certain sections were voted down if we follow your system. Have you researched that out, and do you have competent legal authority to say that that can be done?

DELEGATE JOHNSON: Thank you, Bill. Yes, I did—well, I talked to the Attorney General about this, and he said it could be done. It's going to be—it would be a hard job, though, he said. It's hard. Everybody knows here it's hard. I was advised that before I went down and talked to him. Of course, here—there are lawyers in this place, and they've all said the same thing, except that several of them here didn't want to admit that it could be done. They said it was too difficult, and it would be difficult. However, probably the most difficult thing would be just the case that Mr. President brought up here this morning when we were discussing this—is in the field of the veto, which, if the Executive Article were taken out, it would be—it would leave us without a veto power there for a little while until something—which is difficult procedure. But the mechanics of it can be handled. I was assured of this, and I'm convinced and I still think it's a very good proposition. Thank you. I didn't mean to talk all day on the answer, Bill.

CHAIRMAN GRAYBILL: Mr. Harper.

DELEGATE HARPER: Yes. I assume everybody is aware of this; but it isn't quite that simple, I don't think, Torrey. Let's put the case this way. Let's say the new Legislative Article passes and the new Executive Article fails. The new Legislative Article, to use your point of the veto, says the Governor shall not have a pocket veto and the old Executive Article says he does. Now, the people have just voted at the same instant for both of these. Now, then, what court could possibly say which one the people meant? And this is just—only—this is just one instance of the interlocking of all of these many sections that we've done. I think when we decided that we would write a new Constitution and not follow the exact outline of the old, we set ourselves to the kind of proposition that we have to make on the ballot.

CHAIRMAN GRAYBILL: Mr. Johnson.

DELEGATE JOHNSON: Mr. Chairman, if I—I think I can answer that, just to ease the tension just a little bit. George, in the—we have statutes, you know, that we are running on most of the time anyway, and those are in effect and would be in effect until you could determine the proper procedure there of taking care of this. And in any case, where there is no overlapping conflict, what the people voted for in the new proposal—the new proposed Constitution—would take precedence over anything said in the present Constitution. Thank you.

CHAIRMAN GRAYBILL: Very well, now, the issue is on Mr. Johnson's motion that the ballot be drawn in such a manner that all articles would be presented separately for a Yes-No vote and all alternative proposals would be presented separately for a Yes-No vote. I trust we're going to have a roll call vote. All in favor of Mr. Johnson's proposal, vote Aye; all opposed, vote No. Has every delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, we'll take the ballot.

Aasheim	Nay
Anderson, J.H.	Nay
Anderson, O.	Nay
Arbanas	Nay

Arness	Nay
Aronow	Nay
Artz	Aye
Ask	Nay
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Nay
Berg	Nay
Berthelson	Nay
Blaylock	Nay
Blend	Nay
Bowman	Nay
Brazier	Nay
Brown	Absent
Bugbee	Nay
Burkhardt	Nay
Cain	Nay
Campbell	Excused
Cate	Absent
Champoux	Nay
Choate	Nay
Conover	Aye
Cross	Nay
Dahood	Absent
Davis	Aye
Delaney	Nay
Driscoll	Nay
Drum	Nay
Eck	Nay
Erdmann	Aye
Eskildsen	Absent
Etchart	Aye
Felt	Nay
Foster	Nay
Furlong	Nay
Garlington	Nay
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Nay
Harlow	Nay
Harper	Nay
Harrington	Nay
Heliker	Nay
Holland	Absent
Jacobsen	Aye
James	Absent
Johnson	Aye
Joyce	Nay
Kamhoot	Aye
Kelleher	Absent
Leuthold	Nay
Loendorf	Nay
Lorello	Nay
Mahoney	Aye
Mansfield	Nay
Martin	Nay
McCarvel	Nay
McDonough	Nay
McKeon	Nay
McNeil	Nay
Melvin	Nay
Monroe	Absent
Murray	Nay
Noble	Nay
Nutting	Aye
Payne	Nay
Pemberton	Nay
Rebal	Absent
Reichert	Nay
Robinson	Nay
Roeder	Aye
Rollins	Nay
Romney	Aye
Rygg	Aye
Scanlin	Nay
Schiltz	Nay
Siderius	Nay
Simon	Absent
Skari	Nay
Sparks	Nay
Speer	Nay
Studer	Aye
Sullivan	Nay
Swanberg	Nay
Toole	Excused
Van Buskirk	Nay
Vermillion	Nay
Wagner	Nay
Ward	Nay
Warden	Nay
Wilson	Aye
Woodmansey	Nay
Mr. President	Nay

CLERK HANSON: Mr. Chairman, 22 delegates voting Aye, 66 voting No.

CHAIRMAN GRAYBILL: 22 having voted Aye, 66 having voted No, Mr. Johnson's proposal is defeated.

Now, Mr. Felt, does the Chair understand that you have a proposal?

DELEGATE FELT: Yes, Mr. Chairman.

CHAIRMAN GRAYBILL: The Chair would like to hear it. It's got another one, but I think I would like to hear yours.

DELEGATE FELT: Yes. I might be trying to bite off too much, because if this did carry, I think it would settle the entire ballot question, so I'd like to move that the revised ballot be as follows—I'm following the general form of revised ballot number 2 but with some variations from it. I move that the Style and Drafting Committee be authorized to choose the exact wording, but that it include a provision to vote for the proposed Constitution, period, and a provision to vote against the proposed Constitution, period, and that Style and Drafting be instructed to put the unicameral legislative provision in the body of the Constitution and that it put the bicameral legislative body in as an available alternate. Second, that it provide provisions to vote for authorizing gambling or to prohibit the—to continue the prohibition of gambling. And, third, that it provide provisions to vote for authorizing the death penalty or for abolishing the death penalty.

CHAIRMAN GRAYBILL: All right. The Chair understands that Mr. Felt has a motion, the substance of which is that Style and Drafting should make the ballot as follows: An opportunity to vote for or against the Constitution; included in the Consitution would be unicameral; as an alternative to the Constitution's unicameral article would be bicameral. This is like revised ballot number 2. In other words, the For and Against is the top two lines, with unicameral in, and if you put brackets around that—or strike out the word "bicameral", with an alternative, then, for bicameral. Then, secondly, Mr. Felt—if you'll—following number 2, they put prohibiting gambling in up above—and then you could make your alternative authorizing gambling or against authorizing gambling—is that what you mean?

DELEGATE FELT: Yes, just so they give you the choice on the gambling issue and give you a choice on the death penalty issue.

CHAIRMAN GRAYBILL: "For", as you said—"For"—and I think you have a good point—"For authorizing the death penalty" and "Against authorizing the death penalty". In other words, you want to put the "For" and the "Against" there in such a manner that it comports with the death penalty. Is that right? Give them a choice on that?

DELEGATE FELT: Yes, a choice. And I would be glad to have Style and Drafting propose particular wording.

CHAIRMAN GRAYBILL: All right, now, this amounts to revised ballot number 2; and the Chair will entertain Mr. Felt's motion, and then there may be amendments made to it.

And for that purpose I'll recognize Mr. Drum.

DELEGATE DRUM: Mr. Chairman, I would move to amend Mr. Felt's motion to read the bicameral portion of the Legislative Article will be included in the body of the Constitution and the unicameral will be the alternate. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: All right, the Chair will allow that. Now, let's get this down again so we all understand it. You may want to make some notes on this. There's an alternative for Yes or No on the Constitution itself, and the Constitution shall contain, in Felt's amendment, the unicameral. That's the subject of Mr. Drum's amendment. Then, number 2—or then there's a sub. to that. There is an alternative on the ballot for bicameral. Okay. Then, number 2, the Constitution will say—in addition to having the Constitution up there say "unicameral", the Constitution will also say "no gambling"; and the alternative to that will be, allow gambling by the people and the Legislature.

DELEGATE FELT: Mr. Chairman, are you explaining my motion?

CHAIRMAN GRAYBILL: That's what I'm trying to do.

DELEGATE FELT: No, I had intended to put into the body only the unicameral, leaving, the—on the gambling issue and on the death penalty issue, two alternatives to be voted either for or against—

CHAIRMAN GRAYBILL: All right.

DELEGATE FELT: —and I thought you had just now said that one of them went into the body.

CHAIRMAN GRAYBILL: All right. I understand that on the death penalty they vote for or against, but I have trouble then with your motion, Mr. Felt. I just want it to make sense. If you put an alternative For or Against—and you can do this, but the body's got to be aware of what you're doing—if you put the gambling matter as a pure alternative, For or Against, then we may have a 47 percent "For" and a 48 percent "Against" and we may, in fact, end up with nothing in the Constitution, which really means you're putting a third proposition. Now, if that's what you mean to do, fine; but then it's got to be clear. The other thing, if you're following form 2, as you told us you were, it, as you notice, puts up at the top that you either have to prohibit or authorize gambling; and that goes in, too; and only the words "except as authorized by the Legislature and the people"—then it becomes the alternative. Now, if you do it the other way, you're really back to Mr. Choate's third proposition of having nothing in the Constitution. Which do you want?

DELEGATE FELT: I wish to run the risk in regard to the gambling issue and the death penalty issue that there be nothing in the Constitution. I felt that this was the decision that the body had made by deciding at various times that these would be put on the ballot as alternate issues. Perhaps that decision was made before they realized that it might result in nothing being in the Constitution. In my point of view, it would mean if nothing got into the Constitution on them, that the Legislature then, not being prohibited from dealing with the gambling question and not being prohibited from dealing with the matter of penalties, would have the discretionary power to deal with those problems.

CHAIRMAN GRAYBILL: All right. That's fine. I was misled when you said you were following number 2, which does it the other way, but we'll put it your way just so the public—so that the body knows. Now, the point is—let's all understand Mr. Felt's motion—his motion is that, number 1, we're going to put one of the two legislative forms in the Constitution and the one we're going to put in is unicameral, and in a minute we're going to let Mr. Drum amend that to bicameral. Just wait till I've finished explaining, and I'll come back to you. Then, number 2, he's going to put the gambling (a) - (b), and if neither gets a 51 percent, then we have nothing about gambling in the Constitution. Now, the alternative to that—well, maybe I shouldn't explain that, but eventually I'll make a motion if nobody else does. All right. Third, he is going to do the same with the death penalty, which, of course, isn't in in the first place; and then we'd vote for or against putting something about the death penalty in; and if 51 percent went for it, we'd put it in, but if they went against it, we would leave it out, where it is now. All right. Now, to that, Mr. Drum has an amendment to change bicameral and unicameral around. Okay.

Mr. Davis.

DELEGATE DAVIS: Mr. President, I move as a substitute motion to all motions pending, if it's proper, that we put the bicameral in the Constitution and leave the unicameral on the side, period, and then treat these others as separate issues so we don't get them all mixed up together. I think—(Inaudible) Well, you left in the rest of your motion, though—of his, as I understood it. You only made an amendment which would leave the other two articles in.

CHAIRMAN GRAYBILL: All right, I understand what you've done, Mr. Davis, and that's a substitute motion and we'll allow it. Now, Mr. Davis eliminates all the other problems of the Felt amendment and says that—he only deals with point 1 of Mr. Felt's, and he would have us vote Yes or No on the Constitution with the bicameral in. Isn't that what you mean?

DELEGATE DAVIS: And unicameral as a side issue.

CHAIRMAN GRAYBILL: And unicameral out.

DELEGATE DAVIS: Yes, sir.

CHAIRMAN GRAYBILL: So he's not dealing with points 2 and 3, and so we're going to discuss first Mr. Davis' motion and presumably solve one way or the other what point 1 should be about bicameral-unicameral.

DELEGATE DAVIS: Mr. President, my only point in that is if—let's take these issues one by one as we've done throughout this Convention. We're getting at the end and everyone's, naturally, becoming impatient; but there could be some good arguments different people have or concern on the death penalty or concern on gambling as much as others are concerned about the unicameral or bicameral—and maybe more. So I think if we approach it this way, we'll probably make more progress if we talk about one thing at the time and go on down the line.

CHAIRMAN GRAYBILL: Very well, Mr. Harper.

DELEGATE HARPER: Mr. Chairman, may I amend Mr. Davis' substitute motion?

CHAIRMAN GRAYBILL: Wait a minute, I can't listen. Okay, shoot.

DELEGATE HARPER: I move to amend Mr. Davis' substitute motion by substituting the word "unicameral" for "bicameral" in the body of the Constitution, "bicameral" for "unicameral" as the alternative.

CHAIRMAN GRAYBILL: Okay, I guess we can do that. Now, we've got all the amendments we can handle until something happens. Mr. Harper amends Mr. Davis' to put unicameral in and bicameral out. Unless someone has a real preference for the colors on those buttons, it doesn't make any difference. All right, we are now debating Mr. Harper's motion to have the first part of the ballot say you may vote Yes or No for the Constitution, but the Constitution will contain the unicameral article and the bicameral as an alternative.

Mr. Choate.

DELEGATE CHOATE: Mr. Chairman, I think it's become perfectly clear that if we put either of these—oh, the death penalty or gambling or both—as strictly side issues, as you pointed out, it ought to be very clear that neither could pass because the vote is going to be divided somewhat, probably pretty evenly on these issues. If it were not going to be pretty evenly divided, we would have had a more top-heavy vote—

CHAIRMAN GRAYBILL: Now, Mr. Choate, I think your point is well taken to 2 and 3, but your point is not well taken as to 1 since neither side has proposed leaving them both out.

DELEGATE CHOATE: Right. So, the point being, that I think that on all three of these issues, we need to decide in this Convention by a majority vote on each of these issues; and those three should be put into the body of the Constitution; and the other would be as an alternate and would be bound to fail—so the three that we would select to go in will be weighted top-heavily in favor of them because they would be part of it. As two separate alternates would neither of them get a 51 percent majority, I don't believe, so I think that—and on this instance, if we put, we'll say, the issue of gambling as a side issue to vote on and it fails, then, in effect, we who originally proposed to delete it from the Constitution will have done so, because the new one won't make any reference to it, and if it fails, then you have no provision, see. That's all. Thank you.

CHAIRMAN GRAYBILL: Mrs. Reichert.

DELEGATE REICHERT: Mr. Chairman, I rise in support of Delegate Harper's substitute motion, and I'm wondering if the debate that was scheduled to start at 2:00 might start now at 4:30. May I speak to the question of inserting unicameral in the body of the new Constitution?

CHAIRMAN GRAYBILL: If you speak, you may speak on that, because we've got to decide that now, one way or the other.

DELEGATE REICHERT: All right. I'm not going to speak long, and I want to beseech my fellow delegates, whether they are bicameralists or unicameralists, to please follow suit. I hope that no one speaks more than a few minutes on either side. I want to apologize, first of all, because I'm afraid that during the course of the Convention some of my remarks have been misconstrued, and I'm talking about remarks about past legislative sessions. I want to make it very clear that I have not been critical of legislators themselves. I've had a lot of—oh, quite a few people say to me they thought I had been very unfair to our legislators, and I don't think—and I'm sure that I feel inside that these legislators operated as well as they could under the structure they were given. I feel that it is completely the fault of the bicameral system that they had the problems they had over the past seven sessions, and I hope that by trying the unicameral system—I'm very grateful to Delegate Habedank for inserting that provision—by trying it till 1980, will give our legislators an opportunity to show what they can do for the State of Montana so that we're not always turning to the federal government, so that we can solve our own problems. I think we're perfectly capable of us solving our problems if we have a system which we can work. Now, I know that there are many reasons I could go into—like the one man-one vote being most important—but I'm not going to do that. I am going to ask my fellow delegates who are as concerned about this issue as I am to speak to the subject.

CHAIRMAN GRAYBILL: Mrs. Erdmann.

DELEGATE ERDMANN: Mr. President, I support the motion for unicameral to be in the main body, and I'll be very brief. I think that it's no longer a matter of check and balances, to have two houses, but I do believe that—and I believe this would eliminate the duplication. I think, actually, that we've been spending all our time talking about form and structure and power and rights of government, but the average taxpayer is more concerned about what hits his—concerns his pocketbook, and I believe people are very cost-conscious, and I believe that the lower cost of the one house will appeal to most of the voters. Thank you.

CHAIRMAN GRAYBILL: Mr. Blaylock.

DELEGATE BLAYLOCK: Mr. President, I would urge you people, on these motions that are now before the house, to defeat all of them. I would like to have a chance before we vote on this to go for that first ballot. In other words, go for broke. And on that first ballot, they are either for the proposed Constitution or they're against it. And then we have a vote straight-out by the people of the State of Montana for a unicameral or a bicameral, and we're not deciding it here, and I'm willing to take a chance. I think this business of running scared and saying, "Oh, the people aren't going to vote on that second issue, they're not that interested"—we'll have the people out, and I believe that we will have a majority vote on that second issue, and I would like to have you defeat all of these motions so we can at least get to this one and then either up or down on it. If you don't agree with me, fine, but we're asking to be—we're asking—being asked to decide two things right now: the form of the ballot and unicameral-bicameral. And I'd like a clear-cut choice on that first ballot; then go to the second one, you go to the third one, whichever one you want to choose there, and go ahead with the unicameral-bicameral, if that's what you want to do; but let's have a free choice on this first ballot, whether we want to take a chance on the people. We've talked in here a lot about participatory democracy. Now, we're going to take that away from them, so I ask you to defeat all of these motions and let's get back to this first ballot.

CHAIRMAN GRAYBILL: Mrs. Cross.

DELEGATE CROSS: Mr. Chairman, in line with what Chet Blaylock has just said, though I didn't know he was going to say it, I would like to make these remarks. In the North Dakota Constitution which will go before the body, there is this statement—and I'd like to read it to you if I may; it's very short—"The main proposition calls for a vote on the proposed 1972 Constitution. If a majority of the voters vote Yes, it shall be adopted. If a majority of the voters vote No, the proposed 1972 Constitution shall not be adopted. You may vote on any or all of the alternate propositions. If the main proposition fails, the vote on the alternate propositions shall have no effect." And then, following that, are some very brief statements with four alternate proposals, most of them merely to be marked by Yes or No.

CHAIRMAN GRAYBILL: Mr. Romney.

DELEGATE ROMNEY: Mr. Chairman, Chet Blaylock is correct. This is not a matter of whether or not we are for unicameral or we are for bicameral. The proposition is to be left to the judgment of the people, the voters of the State of Montana, and the first form here, which nobody seems to be talking about, is the one that should be used. I concur with Delegate Blaylock 100 percent and trust that you'll defeat all of these amendments and authorize issuance of the first one.

CHAIRMAN GRAYBILL: Mr. Jacobsen.

DELEGATE JACOBSEN: Mr. President, fellow delegates. I signed my name on both of these proposals for bicameral and unicameral. I hope that we can try unicameral until 1980. The delegation we have here of 100 delegates proves to me that a bicameral [unicameral] Legislature will work, because we've had reconsideration on many things, and it's in the reconsideration of things we've passed and done that I, as just a layman—and I know a lot of others of you—that I found out more about what we're talking about. Thank you.

CHAIRMAN GRAYBILL: Mrs. Mansfield.

DELEGATE MANSFIELD: Mr. President, this is the premise that I've been working on, too. I think that if we vote here for a unicameral or bicameral, we're infringing on our right of a secret ballot, and I think we should be going back to our community and giving them the right to choose a unicameral or bicameral. Thank you.

CHAIRMAN GRAYBILL: Mr. Foster.

DELEGATE FOSTER: Mr. Chairman, fellow delegates. I speak in favor of the motion before the house, in favor of including the unicameral proposition in the body of the document and the bicameral at the side of the document. I realize that, in doing this, that this body would be, in fact, stating a preference for the unicameral position, but I submit that this is not all that bad a situation. Delegate Driscoll had a motion before the house which would have settled it once and for all, but at least in this way we are giving the people the chance to vote against the unicameral if they are overwhelmingly in favor of retaining the bicameral, but at the same time we are at least expressing our preference as a body to try the unicameral system. We've allowed for the alternative of them voting against it if they find it unsatisfactory. And I, for one, feel that the unicameral house will provide better representation for the minorities—whether they be rural Montanans, whether they be in the cities of Montana, or whoever they may be—and I feel that the issue of representation is extremely important in this field—and I feel that by placing the unicameral in the body of the Constitution and placing the bicameral as an alternative on the side, that we, in fact, give the people of Montana the preference of this body and we also give them the opportunity, if they feel so inclined, to vote against the preference of this body and retain the bicameral if the majority of the people of Montana would want to vote in that manner. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Davis.

DELEGATE DAVIS: Mr. President, fellow delegates. I had hoped throughout this and supported throughout putting them both on the ballot. I missed the Style and Drafting report that there's some problem presented that the Enabling Act will still carry through after we adjourn, so a majority will not prevail and that's—is that correct—is what the Chair's understanding is—that a majority will—a simple majority will not write the article in the Constitution?

CHAIRMAN GRAYBILL: I don't—that isn't my—I don't understand your question, Mr. Davis.

DELEGATE DAVIS: In other words, the 51 percent you have to get between bicameral or unicameral if they're both alternatives.

CHAIRMAN GRAYBILL: The sense of the Enabling Act, and really of the old Constitution, is that 51 percent of the people—or 50 plus one vote—50 percent plus one vote of the people have to support a proposition before it's adopted.

DELEGATE DAVIS: Well, I'm not any authority and haven't studied on that. I have serious reservations about it, however, since it seems to me that when the people vote on this new Constitution, the majority should prevail. But I won't pursue that because of the matter before us. I had hoped that these both be on the ballot and the person could go ahead and vote and let the people vote how they want. As it now comes that everybody is going to put themselves in this situation, I am going to support the bicameral proposition and go down in flames with them, not because of the finance part. I realize that's going to be more than unicameral. I think in the bicameral—or the bicameral is going to cost more money, which suddenly has become an issue here; after all the many things we've done from education, welfare and on, we're going to be concerned about money at this era. That's not surprising to me. When we went through, I thought I'd observe how a unicameral system works. We are now at the last day. I think we've all had a chance to observe how it works. We talked about revenue and finance—a lot of people were concerned. On the Highway Department—the Highway Department's run by a board, appointed by the Governor, of citizens—very responsible people doing the best job they can, I'm sure. At that time, the big argument was made, "we're going to make them responsive to the people, so we're going to take a three-fifths amendment, and that will make them responsive". All right, I voted to let them run the Highway Department. I didn't care any more about the League of Women Voters designing our highways than I did the Farm Bureau running the education system, but when we got to the education system, what we said about being responsive to the people didn't apply. I voted to give the Board of Regents power to run the school systems, too, because I think that's what you have to do; but the people that voted against the highway running their department voted against the Board of Regents running theirs completely; and that's happened in our unicameral system. It's going to go out that way. It's going to be a very bad, grave error we made on this thing. I've sat here and watched votes switch from 77 to 16 on Saturday to 76 to 17 on the following Monday and seen things we put in on Saturday completely changed the following Monday. They say that's the right to reconsider, but if you're that unsure of yourself, with the lot of work we have to do and the Legislature will have to do, and that—I think the system of checks and balance that worked throughout our history has worked very well, and I think it has—there's plenty of work for both the Senate and the House to do. With all the work that this Constitutional Convention is going to do, they're going to need all that and a lot of additional help at that. So, I'm going to support putting the bicameral in—that's the system that would normally be expected to be in—and let them vote on the alternate on the side.

CHAIRMAN GRAYBILL: Mr. Rollins.

DELEGATE ROLLINS: Mr. Chairman, I spoke out strongly against putting alternatives on the ballot and hoped that we could make up our mind here. I supported Mr. Driscoll's amendment to that effect. Since that didn't carry and we are going to have alternatives, then I favor as wide-open an alternative as possible. Therefore, I oppose the motion of Mr. Felt, or whose ever it is now that it's been amended, and I agree with Mr. Blaylock that the people should have a wide-open choice on this. Thank you.

CHAIRMAN GRAYBILL: Mr. Berg.

DELEGATE BERG: Mr. Chairman. Miles Romney notwithstanding, Mr. Rollins notwithstanding, I am against Chet Blaylock's motion, and I am for the Constitution, and I am very apprehensive of what we are about to do here today because the figures just don't justify the approach we're about to take. Those figures on that board indicate very clearly to me that we may very well adopt a new Constitution and have an 1899 Legislature. It's almost inevitable, because those who vote against the Constitution are not going to take the trouble to vote for either unicameral or bicameral; and the result will be that the vote on bicameral or unicameral will not be sufficient, it will not be a majority, it will not carry, and we will necessarily on our legislative feature revert back to 1899 and lose all of the benefits that this new Legislative Article provides. This is, after all, the real issue that we are discussing here. This is an immensely important vote you're about to undertake.

CHAIRMAN GRAYBILL: Now, the Chair is disturbed; and no one getting up instantly, the Chair is going to enter the debate for a moment, if I may; and I'll sit up here if you'll let me. The Chair is disturbed. I think it's good that we have debated this this afternoon, because I think that the whole body is beginning to see the problems that have caused our excellent Style and Drafting Committee to literally come up with no proposal. It is not an easy problem. However, it need not necessarily be an impossible problem, either. Now, let's get back to the basics here. The Constitution says that the—"and unless so submitted and approved by a majority"—"a majority" is the word you want—"of the electors at the election, no such revision, alteration or amendment shall take effect." So, we know that a majority has to prevail before any revision, alteration or amendment takes effect. Then the Enabling Act came along, and it says: "The Convention may submit the proposals"—in the plural—"to the electorate in any of three forms. As a unit"—now, we've rejected that by rejecting the amendment to take these alternatives out. Number 3, in the form of a series of separate amendments—we've rejected that—that's Mr. Johnson's proposal. And "(b) submitted as a unit with the exception of separate proposals to be voted upon individually." Then it says down here: "If a majority"—that's what it is, it isn't 51 percent. We talk about that sometimes, but it's a majority—"of the electors voting at the special election". Now, Mr. Murray has already checked with the Secretary of State's office, and so that everybody understands, the Secretary of State says he is going to count the people that vote for and the people who vote against the Constitution, and whatever that number is, that's the ones he's going to count as voting. Isn't that correct, Mr. Murray? He's not going to count the pollbook, he's not going to count this and that and that and add them, because a lot of times the votes don't all add up. He's going to count the plus and the minus, or the For and Against on the Constitution, and that's the number voting, just like you do when you—the other day when we said the number for a referendum is the total for the office of Governor. Okay, now, "if a majority of the electors voting at the special election vote for the proposals of the Convention, then the Governor shall by proclamation declare the proposals to have been adopted." Now, that has caused the Style and Drafting Committee to come to the conclusion that we have to have not 51 percent, but a majority on each proposal. Now, for awhile there was a possibility and a suggestion, if you'll follow through the way this developed, that we could say that a vote for the Constitution implied a vote for one of the two alternatives on bicameral-unicameral and that a plurality on that issue could decide. Now, we could do that and we could say that that's what we mean and that the only vote that counted was on the 51 percent—or on the majority part—was the top one, but the lawyers on Style and Drafting are afraid this is risky. It does place in the hands of the Supreme Court the issue of whether or not plurality on unicameral-bicameral means anything. Now, ballot proposal that you've got before you, called "official", takes Mr. Blaylock's position and it says, "Let's vote For or Against the Constitution. Now, we either get 51 percent or not. If we don't, why, it doesn't matter; but if we do, then we'll vote for or against the unicameral-bicameral, for or against the other two propositions", and as Chet says, "we'll take our chances on getting 51 percent". And we could do that. And if you have an open ballot like that, it is certainly conceivable that with any little margin up above, you'd have some margin on one of those other two articles, so we could—and it really wouldn't matter too much on the bottom two, but it does matter on the Legislative. So we could run that risk. It's to avoid that risk that the Style and Drafting proposes ballot number 2—not the second one, the third one—ballot number 2—and to avoid that risk, they have decided—or they suggested on this ballot, and that's the motion that Felt has before us now, we'll put one of those right in the Constitution and when you vote Yes on the Constitution, you've automatically voted for one of those. That avoids the risk of losing a Legislative Article and of losing the other two little items on the ballot. It does, however, provide the guy that's left out with a slight disadvantage. None of us, obviously, know how great the disadvantage is, but it does provide us with a disadvantage. So you've got to go on the proposition that Mr. Blaylock says—we'll just take the risk—or you got to go on the proposition that one of us is going to get a slight advantage—one of the two sides. Or, if you'll look at number 1—revised ballot number 1—here is another strange idea that sort of combines the two, and in this one—it's kind of hard to read because of all the alternatives there, but what it really is saying is that we'll put one in, all right; we'll put—let's say, bicameral in, so we can't lose; but instead of putting unicameral out, we'll put unicameral-bicameral out so that when the people make the choice on vote number 2, they're still making a choice between unicameral-bicameral. If bicameral wins, it substitutes for bicameral and, obviously nothing happens. If unicameral wins, it substitutes for bicameral—if it wins by 51 percent—it substitutes for bicameral and, obviously, something happens. The point being that on this one, when the people see ballot number 2—or choice number 2, they are still choosing between one-house and two-house instead of choosing one-house or nothing or two-house or nothing. Now, that's the three propositions you've got before you. And you can go with Mr. Felt's, which is perfectly—it's a safe one. It's got one of them in, and we—if we ever get 51 percent we can't lose. The only disadvantage to it is that one of us, one side, is going to take a licking. Or we can go with Mr. Blaylock's and say, "devil take the hindmost; we're going to go for broke, and we'll take our chances," in which case it's possible that you could piece together something of the old Constitution to take the place of that particular part if it lost. Or you can reserve your votes and go for a number 3—which puts either unicameral or bicameral in, and then it becomes less important—it's still important, but it becomes less important—and give them a clear unicameral-bicameral choice outside. Now, those are your three alternatives. You've got to either support Felt, or you've got to wait and support Blaylock, or somebody's got to make a motion to do the one in the middle. Mr. Romney.

DELEGATE ROMNEY: Mr. Chairman, I cannot see the logic in this proposition at all.

CHAIRMAN GRAYBILL: In any of them?

DELEGATE ROMNEY: No, this one—number 2.

CHAIRMAN GRAYBILL: Felt's.

DELEGATE ROMNEY: And the same goes for number 1. I can see the logic in the Blaylock proposition, although I admit there's some risk there, but is there not equally the risk in number 2, where you tie either the unicameral or the bicameral, I don't care which, into the Constitution itself—into the main body of the document? When you do that—let us say you put the bicameral in or the unicameral in with the main body of the Constitution, the electorate goes to the polls, they vote. The people who see the unicameral in there, who are against it, they vote against the unicameral and, in the same sweep of the hand, they vote against the Constitution in toto. The same thing would happen if it were the bicameral that were in there. They go to the polls; they're against the bicameral; they vote against the bicameral; and when they do, they're voting against the Constitution.

CHAIRMAN GRAYBILL: Well, that only would apply, Mr. Romney, if, in fact, you wrote it up in such a way that it was crystal clear that they did that. But if you simply wrote the Constitution and put into the—and it's available for their surveillance at the—they can look at it at the polls—but the North Dakota ballot, for example—it's really not possible to tell whether the one-house and two-house legislative alternative is in or out of the Constitution.

DELEGATE ROMNEY: Mr. Chairman, it's in the same bracket; and when they vote against the Constitution—or bicameral or unicameral, I don't care which it is, they're voting against the Constitution; and when you get the people who are against—say it's the bicameral—

you get the people who are against the bicameral voting against the Constitution, plus the people who are against the death penalty or one of the other things or against the 6—Section 6 in the finance section and against this and that and some other section, you're going to build up a majority that will be insurmountable.

CHAIRMAN GRAYBILL: Mr. Habedank.

DELEGATE HABEDANK: Mr. President, I would like to ask you a question. I would like to vote on revised ballot number 1. Is the only way to get to that to defeat all the other ballots and then make a motion, or can we make another substitute motion for all motions pending? Because if we would accept revised ballot number 1, we would have all these things answered.

CHAIRMAN GRAYBILL: Well, the way to get at revised ballot number 1 is to wait till we've defeated at least something or until we've adopted something and then make a proposal to substitute for what we adopted.

DELEGATE HABEDANK: Thank you.

CHAIRMAN GRAYBILL: Mrs. Eck.

DELEGATE ECK: It was my understanding someplace along the line, and I'd like to be corrected if I'm wrong, that on revised ballot number 2, the For or Against would just be for the proposed Constitution and against the proposed Constitution. I think that if anything more is added to it, why, the people are starting to make a choice long before they want to make choices down below; and I think maybe the way this is worded up here is confusing people. Would Mr. Schiltz yield to a question here?

DELEGATE SCHILTZ: I yield.

DELEGATE ECK: Mr. Schiltz, would you intend to put more than "For the proposed Constitution" and "Against the proposed Constitution"?

DELEGATE SCHILTZ: As I explained earlier, Mrs. Eck—quite a lot earlier, and I don't blame you for having forgotten—this is only a guide so we can debate this matter. We would still, after we got that answer—would still adopt a ballot and possibly change it. We haven't even acted on that yet.

DELEGATE ECK: Mr. Chairman, I really think that this is where a lot of the misunderstanding is, here. If we do vote on this For and Against, up at the top, and then started adding things, I can't see that there's going to be that much confusion.

CHAIRMAN GRAYBILL: Mr. Murray.

DELEGATE MURRAY: Mr. Chairman, am I right in that Mr. Felt's amendment, which was the original motion before us, was on revised ballot number 2 and he proposed some amendments to that?

CHAIRMAN GRAYBILL: His—it's the first half of revised ballot number 2, but he did not follow through on 3-A and 4-A.

DELEGATE MURRAY: Yes, but he did make some—just speaking to the legislative part of it, he—his motion spoke at least to the Legislative Article as we are discussing it, is that right?

CHAIRMAN GRAYBILL: Mr. Felt's is revised ballot number 2, as far as the Legislative Article and the Constitution is concerned, yes.

DELEGATE MURRAY: And he was unicameral in the body of the Constitution and bicameral out?

CHAIRMAN GRAYBILL: Yes.

DELEGATE MURRAY: And Drum then proposed an amendment, bicameral in and unicameral out?

CHAIRMAN GRAYBILL: Yes, sir.

DELEGATE MURRAY: And then we finally ended up with Harper.

CHAIRMAN GRAYBILL: Davis proposed—

DELEGATE MURRAY: Is Davis ahead of Harper then? Right. Davis limited the motion just to the Legislature.

CHAIRMAN GRAYBILL: Davis' and Harper's motions do not include the 3 and the 4.

DELEGATE MURRAY: That's right. So now the issue is on Harper's motion that we have the unicameral in the Constitution and the bicameral out, is that right?

CHAIRMAN GRAYBILL: That's the idea.

DELEGATE MURRAY: Under—generally under revised ballot number 2?

CHAIRMAN GRAYBILL: Yes. Now, when we've decided that, if we decide it—you know, that doesn't—once we've got it in there, we still have to decide what to do with some of these other things.

DELEGATE MURRAY: Right. Well, I realize we have those other issues. Well, then, at this time, since we're all discussing revised ballot number 2, which in principle is where I think we should be, and since I'm a unicameralist, I would support Harper's motion.

CHAIRMAN GRAYBILL: You got it figured out, Mr. Murray.

Mrs. Bates.

DELEGATE BATES: Mr. Chairman, I know there is no longer allowed any more amendments, but I was wondering—and I'd like to ask a question of Mr. Schiltz, with your permission—of Delegate Schiltz.

CHAIRMAN GRAYBILL: Mr. Schiltz?

DELEGATE SCHILTZ: I yield.

DELEGATE BATES: Mr. Schiltz, did you consider at any time including the—everything but the structure of the bicameral and the unicameral—within the Constitution package itself and leaving just the structure for the people to vote on? Could this be possible?

DELEGATE SCHILTZ: You're talking about the ballot or the Constitution?

DELEGATE BATES: I'm talking about the ballot just having the structure of the unicameral and the bicameral as an alternate vote; whereas, the body of the Constitution would include all the reforms we have acted on here.

DELEGATE SCHILTZ: Mr. Chairman, would Mrs. Bates yield to a question?

CHAIRMAN GRAYBILL: Mrs. Bates, would you yield?

DELEGATE BATES: Yes.

DELEGATE SCHILTZ: What do you mean by "the structure"?

DELEGATE BATES: I mean those first three sections of the Legislative Article.

CHAIRMAN GRAYBILL: What she means, Mr. Schiltz, is have you considered putting all of the things that both these people agree on in the Constitution and only having the one-house and the two-house and the numbers of the legislators out?

DELEGATE SCHILTZ: Yes, I think we considered that and rejected it.

DELEGATE BATES: Could I speak, then, on the motion before the floor? Delegates, I feel we should realize that it's a fact of life that no future legislature will cost less than they have in the past, regardless of what type, whether it's a "bi" or "uni". It has also been stated that the people want to express themselves, and I feel if we leave the unicameral in the Constitution itself, it will jeopardize the entire Constitution. And in regards to Mr. Harper saying at one time that whether we want a one-hump or a two-hump camel, well, I would feel much safer between two humps than try to straddle one and sliding off one side or the other. (Laughter) Thank you.

CHAIRMAN GRAYBILL: Mr. Harper.

DELEGATE HARPER: Mr. Chairman, I think—I feel that Grace was onto a point, and I'm still uneasy about it—not the one hump or the two, because the thing that makes me for unicameral is that the two humps in the last 7 years have been going in opposite directions, and that makes a pretty untenable camel. The idea, though, that she had that she expressed in her question to Mr. Schiltz is exactly the idea under which the Legislative Committee labored in producing a document. We attempted to write a body of a Constitution, a Legislative Article, so that the only question would be in terms of the structure; and then whichever one passed, or actually if neither one passed—if we didn't get a 51 percent—we were aware of this—then it naturally would be bicameral. It would be the old bicameral, but we'd have all the rest of the new article in there; and we thought that could be a compatible kind of a situation. And I understand that the Style and Drafting Committee rejected this idea—because we drew this up in a lot of detail last night and gave it to them—but I'm not sure exactly why. Now, that's one thing. Second, I would be—I think that some way we are in a bind here now, and I helped get us in a bind by getting that fourth amendment on there. Really, if we could deal with Mr. Blaylock's suggestion, vote number 1 up or down—if we go for that, we haven't got the other. If we don't go for his suggestion, then we'll know we want 1 in, and then we can come right back to this. And if I knew we could do that, I think I would withdraw my amendment—if he could immediately put number 1 up—and then we'd settle once and for all whether we want to go for broke that way or whether we want to go the safe way with ballot number 2; and then we can come right back to either way we approach it, bicameral or unicameral—it just depends on the button you push. Is that—would that help if I withdrew that?

CHAIRMAN GRAYBILL: Well, Mr. Harper, first of all, may I point out to you that under the Felt proposal, where one of the articles goes in, or under the proposal that Mr. Habedank just mentioned and I mentioned, the number—the revised 1, you're going to have all those articles in the Constitution anyway. So it's only under the Blaylock amendment that Mrs. Bates' point and your point makes any difference. Now, if we get to the Blaylock proposal, we might very well want to tell the Style and Drafting to tighten it up as far as possible and get as much into the tent before we decide as possible. But, under the other two, it really doesn't make a whoop of difference whether you shorten it up or not. Do you follow me?

DELEGATE HARPER: Yes, I do follow you. That's the reason I went a roundabout way to get at my question of whether Mr. Blaylock's proposal—and I assume he would make it for us to vote on number 1—would be possible if I would withdraw my amendment at this juncture.

CHAIRMAN GRAYBILL: Well, there's one other point, and we could go to Mr. Blaylock's first and decide whether we wanted to go for broke and do as he says. But there's one other real problem that this body is at right now, and we're going to decide it on yours and Davis' amendment, and that is, this body still wants to know—and they're going to force us to decide sooner or later—which one's got the most votes—

DELEGATE HARPER: I don't object to that—

CHAIRMAN GRAYBILL: —and until we decide that, it doesn't really make any difference.

DELEGATE HARPER: —but if—but we've got—if we could have that, that's all right. But, see, we're tying in a ballot form along with that at the same time.

CHAIRMAN GRAYBILL: Well, my point is, it doesn't—we don't have to know which one's got the most votes to decide Blaylock's issue.

DELEGATE HARPER: That's my point exactly; and if we decide for his, then we can decide—we can take a straw vote or any other way you want—

CHAIRMAN GRAYBILL: But this—

DELEGATE HARPER: —to do—

CHAIRMAN GRAYBILL: —body—

DELEGATE HARPER: —it.

CHAIRMAN GRAYBILL: I just want to remind you that for a long time the Chair has resisted making this decision, and I can see written on their faces that they're going to decide this issue—which got the most votes—and if we do that, they're going to defeat Blaylock to find out and then they'll go back and think about Blaylock again. So we might as well find out which one goes in; and then, if Mr. Blaylock can convince us that neither ought to be in, probably we'll take one of them out.

Mr. Dahood.

DELEGATE DAHOOD: Well, Mr. Chairman, first of all, I think we've got to reason together very precisely. We have a basic general premise that we're avoiding at times in our discussion—and I think my dear friend, Chet Blaylock, avoids that premise—and that is simply this: a certain number of the voters are going to vote on whether they want a new Constitution or not. That number becomes binding upon us with respect to the other propositions. If they vote in favor of a new Constitution, that means the old one is gone when the transitional period is over. Then we come down to the question of going for broke, as Mr. Blaylock describes it; and let's assume that we don't have 50 percent plus one vote for either one, which may very well happen, because some people may vote for the top proposition and neglect the rest of the ballot. Then what do we have? Recognizing the major premise that we cannot get away from, that we will have to have 50 plus one votes of those that voted for the primary proposition with respect to the Constitution. We adopt the new Constitution, we don't have the requisite majority for the subsequent or secondary issue, the old Constitution is out. What legislative body do you have then? You don't have the old one. You don't have anything, and so, as a consequence, we're compelled to take the risk here.

We have to make a choice with respect to bicameral or unicameral. The people sent us here for progressive reform. If they don't like it, they're going to have an alternative proposition to take the bicameral back or the unicameral back, whichever party prevails here; and we have no other solution as I view it. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Ask.

DELEGATE ASK: Mr. Chairman, I've changed my mind three or four times this afternoon, but I think—let me suggest one other way out here. Maybe it's a—I agree with Chet Blaylock and I agree with Mr. Romney that we're putting something in the Constitution, they're going to vote against it even though they are for it for other particulars. Why not on the ballot for the Constitution put—outline it in black—and put four items. Put "For the proposed Constitution, including unicameral"; the next one, "Against the new Constitution, including unicameral". Go on down—and "For the proposed Constitution with a bicameral"; and then, "Against the proposed Constitution with a bicameral". And then you put up in letters, "vote for one". So no matter how they vote, they don't have to make a choice. They're still going to take the new Constitution with whatever house they want; and you're going to give them four things, but they only vote for one. I think this solves the problem. This is where we're getting at, I feel. So, I would think we would turn down these motions and get back to Chet Blaylock's For and Against, but put four propositions rather than two.

CHAIRMAN GRAYBILL: Mrs. Reichert.

DELEGATE REICHERT: Mr. Chairman, will Mr. Schiltz yield to a question, please?

DELEGATE SCHILTZ: I yield, but I might turn it over to Mr. Garlington or somebody.

DELEGATE REICHERT: Well, as you know, we've been talking about this for months, and my primary concern is giving the people an opportunity to choose, and I would go along with Mr. Blaylock's proposal completely if we had some assurance that we could include these points that we worked so hard to conform unicameral-bicameral, but I understand that. Now, my question to you is, Mr. Ask's point has really captured my imagination. Would it be possible for us to do this?

DELEGATE SCHILTZ: Well, I think it's possible for you to do anything. I haven't really thought of it all that long, I would suspect, without asking the committee, that we would be opposed to a great many propositions on the ground that the more propositions you have, the more likely one or more of them is to fail, and—but I'd have to take it up with the committee. I can't decide that.

CHAIRMAN GRAYBILL: Mr. Schiltz and Mrs. Reichert, Mr. Ask's proposal is indeed intriguing, but I've just worked it out and if a hundred thousand voters voted and twenty-five voted for each of those four propositions, nothing would happen.

Mr. Ask.

DELEGATE ASK: Mr. Chairman, I see that point, but I think you're—we're going to—I think we can do that. We can bracket the first two and bracket—have those two count, I think the—rather than take all four—the For and Against for unicameral and the For and Against as one unit—unitize it, and then you don't run into that problem.

CHAIRMAN GRAYBILL: I think that's just what we're doing, only we're doing it in a slightly different form. But you can't do it just—the way you had it is beautiful if you didn't have the rule about the majority.

Mr. Joyce.

DELEGATE JOYCE: Mr. Chairman, I am going, if we get an opportunity in the fall, to vote for unicameralism; but I think what we ought to do is, I think we ought to put bicameralism in the body of the Constitution and then on the side put "bi" and "uni" both, so that the people can vote one or the other—they'll—neither will have any particular preference—they'd both be there. You'd check "bi" or you'd check "uni"; and that way, we would solve the problem. We would give the—we would draw the issue clearly between "bi" and "uni" out on the side. They could either vote "bi" or "uni"—and presume, hopefully, there'd be a majority vote for one or the other; but if there weren't, we'd still have "bi" in the Constitution. And it seems to me that that would be the better way to go for this reason: that the traditional thing is to have the bicameralism, and there are a lot of people who are just violently opposed to unicameralism and they would, if the unicameral was in the body of the Constitution, they may be tempted to double-shoot the turn, as my good friend, Dave Holland, says, and simply not take the chance of having a unicameral body by—and therefore vote against the Constitution. And I don't think there are that many unicameralists that are that narrow, if I may say—(Laughter) And so, I think if we put the bicameral in the body of the Constitution and put "bi" and "uni" both where you take your pick out on the side and let that issue be fairly debated in the public forum as to which one would win, I think there will be a majority of the people will vote on that issue and one or the other will win and the people of Montana can live with it either way. But I am afraid that if we put unicameralism in the body of the Constitution, even though I think it's worth the try to go for unicameralism, that we would be jeopardizing the entire document because of, as I say, the tremendous opposition to unicameralism—they would be tempted to vote against the Constitution—so I would propose that that might be a solution to the problem and that would be fair all the way around and would guarantee us that we would at least have a bicameral modern Legislature and would still give the unicameralists and the bicameralists the chance to fight the battle out in the public forum as to which one of them won, if both of them were listed side by side on the alternate.

CHAIRMAN GRAYBILL: Mr. Habedank.

DELEGATE HABEDANK: Mr. President, I am very much in favor of unicameralism with the amendment which gives the people the opportunity to try it and see if they like it; but to me, if Style and Drafting would spend the time that they've spent on all our other measures, making them make sense, on revised ballot number 1, if we could ever get to it, we could have all this. And I would sure like some suggestions as to how we can get to revised ballot number 1 without voting against unicameralism.

CHAIRMAN GRAYBILL: Well, Mr. Habedank, what Mr. Joyce described is revised ballot number 1, except he'd put "bi" in and you'd put "uni" in—or maybe you wouldn't. But what he just described is revised number 1, and you're right, but whether we put "uni" in or "bi" in, we still haven't decided. It would seem to me that if we either adopted or defeated the Harper amendment, we could then take another amendment and try out Mr. Joyce's proposition or Mr. Blaylock's proposition. Let's see, I'd like to let a few newcomers in.

Mr. Etchart.

DELEGATE ETCHART: Mr. Chairman, I would like to support Mr. Joyce's idea, because I believe that it is obvious that the bicameralists will vote for the document with the bicameral article in the body, and our present Constitution has this provision; so the only way the rest of the new Constitution will have a fair chance is to put the new Constitution before the voters as it is in the present, and that's with the bicameral provision in it. So, I support Mr. Joyce's idea.

CHAIRMAN GRAYBILL: Mr. Swanberg.

DELEGATE SWANBERG: Mr. President, I think if we took a poll here at this time, I think probably 100 of us would agree that the single most important thing that we came over here for was to change the Legislature. I don't think there's any question about that; and I think if you went out in the street and started talking to people, everyone would say, "Yes, we need change in the Legislative area." That being the case, it seems to me we have to give the voter every opportunity he can have to vote on this Legislative problem; and I would propose, therefore, that if we submit to them a new Constitution with either a bicameral or a unicameral article in it, that we at the same time and as a separate proposal that can stand or fall on its merits without reference to the rest of the Constitution, give them the right to vote on the other alternatives. In other words, if we put in the Constitution a unicameral article, then as a separate proposition, free and independent of anything else, "Do you favor the legislative bicameral article?"And if that's passed and the rest of it fails, then we have, in effect, passed an old Constitution with a new Legislative Article. I think it's vital to be given this opportunity, regardless of the rest of it. Thank you.

CHAIRMAN GRAYBILL: Mr. Burkhardt.

DELEGATE BURKHARDT: Mr. Chairman, after several hours with the Style and Drafting discussion of this, I was, for 3 of those 6 or so hours, where Chet Blaylock seems to be now—that is, feeling that we could somehow do this as gamblers and get our—simply assume that we're going to turn up with a majority; but the lawyers on the group convinced me, after at least 3 hours, that we simply had to make a choice and include something in the body. As I've listened to Mr. Swanberg, I think he's in error. We would have nothing. We would not have a new article. We would have no Constitution if we took the route that he's just suggested, but what concerns me is the way in which it's been presented here this afternoon. I think George Harper was on target a moment ago. We get ready to vote on his particular amendment and we're not on a clear issue, because we're worrying, "Well, now, maybe Chet was right; maybe we don't have to vote on this the way we feel. We'll wait and get a chance to do it like the first proposal here", and it's very unclear. I would just say that if you're concerned to get something in the body and if you're a unicameralist and want that in there, you'd better vote Harper's amendment the first time around and see what happens.

CHAIRMAN GRAYBILL: Mr. Harlow.

DELEGATE HARLOW: With the—Mr. Chairman, with the accumulation of the great minds here in this row and all of the various suggestions that have been put forth, we have come up with this suggestion, which I think may be quite palatable to everyone. Instead of having the four proposals, as Mr. Joyce mentioned—oh, Mr. Ask, excuse me—there's too many things around here; I can't keep track—why don't we put on the ballot these three votes—in other words, one square—voting for new Constitution with unicameral, for a new Constitution with bicameral, or against the new Constitution. There you have a person being allowed to choose between bicameral or unicameral and have the Constitution with it in to his liking; or if he doesn't like any of the Constitution, he can vote against it. Sort of gives you a double affirmative vote without the negative situation and gives you just the one single negative vote.

CHAIRMAN GRAYBILL: Mr. Harlow, may the Chair ask a question?

DELEGATE HARLOW: Yes.

CHAIRMAN GRAYBILL: What happens if a hundred thousand vote and thirty-three thousand vote for each of your propositions?

DELEGATE HARLOW: We're right back where we started from. We're in trouble. (Laughter)

CHAIRMAN GRAYBILL: Mrs. Babcock.

DELEGATE BABCOCK: Mr. Chairman, what if we broke all our rules and took a secret ballot and gave them all to the Rules Committee or the Style and Drafting tonight and came back in the morning?

CHAIRMAN GRAYBILL: Well, I think we're—we can vote on some of these, and we'll get somewhere here in a minute. But Mr. Skari hasn't spoken yet; then I'll come to you, Mr. Felt.

DELEGATE SKARI: Mr. President, as I understand it, then, our problem is really with the language in the Enabling Act—that somehow it wasn't written quite the way it should have been, evidently. Now, I'm not a lawyer, and I'm bothered by the intent of this. I'm sure that they—the people who wrote the act—would have intended that we be allowed to vote on these alternate proposals and that a simple plurality would carry. It seems, right now, under Mr. Blaylock's version here, we can take a chance here. One or other of the alternative proposals here, bicameral or unicameral, may carry by a majority of those who vote on the main body of the Constitution; or, two, the court could rule, possibly, that a simple plurality on the alternatives is all that's necessary. It seems to me that this was the intent of the act. We use our comments here. We say that they will use our comments someday to clarify what we do. I'd like just to pose a question to some of the lawyers that—are there any comments that we can go by?

CHAIRMAN GRAYBILL: Well, Mr. Skari, the problem started in 1889 when the amendatory process, which included a provision for a Constitutional Convention, which we are using today, said—"and unless submitted and so approved by a majority of the electors voting at the election, no such revision, alteration or amendment shall take effect". That's why the Enabling Act says—that you've got to have a majority on every proposition, because the founding fathers said that.

DELEGATE SKARI: I see—

CHAIRMAN GRAYBILL: And they said it because they felt strongly that a majority should support anything that we do. It's not a mistake. It's just what they said.

DELEGATE SKARI: I see. Well, thank you, Mr. President.

CHAIRMAN GRAYBILL: All right, Mr. Felt, do you want to close?

DELEGATE FELT: Well, my motion—

CHAIRMAN GRAYBILL: You can't close. Mr. Harper can, but we'll let you have a shot at it, because you started it.

DELEGATE FELT: Yes. I didn't even speak on my own motion but—or any of the amendments or substitutes. Members of the committee, of course the reason that we are here is because the Constitution of 1889 did not seem to us to be satisfactory, nor did it seem satisfactory to the people of Montana. And we're just seeing another example of that today. Our hands are somewhat tied. I have great sympathy for the position of Delegate Blaylock and particularly Delegate Romney, who said there's no logic to this. And Mr. Skari, pointed it out very well. It isn't a question, though, that we can avoid, because it's with us. The present Constitution simply doesn't give us the opportunity to frame these things the way we might prefer, unless we are, at the same time, willing to take risks that the whole thing can fail; and to many of us, at least, this is an unacceptable risk. I can certainly say I agree with that line of thought, because I am following it, certainly, in regard to the gambling issue and the death penalty issue—to put them both out there on the side, just give people a free choice. And I would have wished that this could have been done with the bicameral-unicameral issue, but I would feel so utterly stupid if we went through this whole process and, because of the risk pointed out by Delegate Berg and others—we get a favorable vote on the Constitution and end up without a legislative body—that I can't possibly stomach that thought. And so, we've come up in this very convoluted process here of motions, amendments, substitute motions and choices, and we wish we had room for one more, and that would suit me. Frankly, I'm willing to support any of these things—the four that are before us and the one that will come before us—if we get an opportunity—because anything is preferable to this horrible catastrophe that could strike us and that the odds would tend, I think, to indicate that it will strike us if we take that chance. I regret very much that this is the situation, but it's just one of the reasons—one of the defects of our present Constitution, one of the reasons why we are here; and I hope in the one we are producing we are not passing on to some subsequent body the same kind of things. But those people who drew this, they didn't foresee this problem. They didn't have any clear intention about this matter, because they didn't think about it. I'm quite certain of that. I can't prove it, of course; but I agree there's no logic to it, but yet here it is. We have to live with what we've got. We have to make this difficult decision and hope that we're doing it right. Thank you.

CHAIRMAN GRAYBILL: Mrs. Reichert, do you want to say a few words before we close?

DELEGATE REICHERT: Yes, Mr. Chairman, because I'm afraid that this vote is going to be terribly misconstrued. I know that, as Delegate Joyce said, he's for unicameralism but he's against Delegate Harper's proposal, which seemingly advocates unicameralism because it proposes putting unicameralism in the body, but he feels bicameralism should be in the body. I just hate to see this thing resolved this way, because we're not getting the vote we want. We thought that we should let the people know how the delegates felt about unicameralism. I wish there were some other way to handle this particular issue. Now, we talked just briefly about this other possibility, which I know I've discussed with you and others. We have in our Legislative Committee attempted in every session to make it uniform between unicameral and bicameral, and I just wish the Style and Drafting Committee could do something about incorporating these ideas for reform into the body of the new Constitution and simply asking the question, "Do you want a unicameral or a bicameral?" We'd have all the reforms regarding bills, organization and procedures. I know it's been explained to me that this can't be done, but some of these other things, as Delegate Felt brought out, are impossible to live with, too. Thank you.

CHAIRMAN GRAYBILL: Mrs. Reichert, the Chair is concerned that you have this—still are concerned about this. If we adopt Mr. Felt's final motion to put unicameral in the Constitution, we will have all that language in the Constitution. If we adopt Mr. Joyce's proposal to put bicameral in the Constitution, we will have all that language in the Constitution. The only time we need to tighten up and get most of it in and only leave a little of it out is in the event Mr. Blaylock has the final red light. And at that point, of course, we should consider whether or not to do that; but there's no use panicking on getting it all in until we decide which way we're going.

DELEGATE REICHERT: Well, that is the key question, because that is the only way the people will be given a choice, a real choice, without insisting on putting one or the other. That is the choice that I thought we would give them.

CHAIRMAN GRAYBILL: We're about to start on the second go-around, Mr. Wilson. Do you want to speak again?

DELEGATE WILSON: I rise for a point of information, Mr. President.

CHAIRMAN GRAYBILL: Good. What is it?

DELEGATE WILSON: I simply cannot understand that, if we don't vote in the proposed Constitution, that we lose the old one. Would somebody clarify that for me? I would think that we lived with the old Constitution for some years, and probably pretty good; and if we don't have this new document, don't we have the old one?

CHAIRMAN GRAYBILL: There's no question that if we don't adopt the new one, we have the old one. The problem and the proposition from which your question springs, I think, is one where it was suggested that we might go, let's say, Mr. Blaylock's proposal, and we vote for or against the Constitution without clearly defining the Legislative Article, and that passes, so we have a new Constitution, but then both (a) and (b) fail—both unicameral and bicameral fail—and at that point, we'd have a new Constitution with no old Constitution, unless you wanted to go back in and start—the court would have to start picking up the pieces and deciding which part of the old one wasn't repealed. That's the only trouble, Mr. Wilson. And I don't know whether we'd have it or whether we wouldn't, and I don't think anyone here knows until the Supreme Court would decide whether we had some legislative left or not.

Mr. Romney.

DELEGATE ROMNEY: Mr. Chairman, I think that the proposition enunciated by Delegate Ask has—is fertile with possibilities; and I feel the same way as Delegate Felt, that it would be a horrible situation if we should wake up without it—a Legislature; but I think that that Ask proposition can be handled and I think it should be explored before we dive off the bridge.

CHAIRMAN GRAYBILL: Well, may—will you yield for a question? Will you yield for a question, Mr. Romney?

DELEGATE ROMNEY: Yes, sir.

CHAIRMAN GRAYBILL: All right. Mr. Ask proposed four alternatives, and he said, "vote for one".

DELEGATE ROMNEY: Mr. Chairman, later he amended that statement, after his colloquy with you, and said that you'd bracket the "For" and—he'll speak to you again.

CHAIRMAN GRAYBILL: Bracket the "For" and the "Against" on the bicameral, yes.

DELEGATE ASK: I have drawn a picture.

CHAIRMAN GRAYBILL: Well, all right, now. I'm not against doing it, except I really think that's what the other three propositions do. And you can certainly make yours as soon as one is defeated, if you can beat the other guys to the draw, and we can consider it; but we've got three other people that have got propositions ready to go here, too, so—

Mr. Blaylock.

DELEGATE BLAYLOCK: Well, Mr. President, I'd like to make a suggestion. Now, a few minutes ago, Delegate Harper said he was willing to withdraw his, and I think Mr. Davis was up, willing to withdraw his. If these people would withdraw—agree to—and we get back to number 1 and that either goes up or down, because I'm with Mrs. Reichert—that, really, we're not getting a clear vote on unicameral-bicameral; there's other things mixed up in this vote right now. So, if these people would agree to withdraw and come back to number 1 and either put it up or down—that's up to you guys—you people, sorry—I think that this would be the fastest way to solve this; and then we could move on and have a clear-cut vote on bicameral and unicameral, whether we want to put it in, whatever may be the case. So I'd like to suggest that, Mr. President.

CHAIRMAN GRAYBILL: Mr. Drum.

DELEGATE DRUM: Mr. Chairman, would you read that motion that I sent up about an hour—hour and a half ago and that looked like it would give a clear-cut decision. And it appears to me that if we were to take a vote of this body, we would then eliminate the question in people's mind as to what or where their position is going to be. If it is—

CHAIRMAN GRAYBILL: All right, I'll read it—

DELEGATE DRUM: —decided one way or another, then it looks like we could move forward.

CHAIRMAN GRAYBILL: I don't think you need to have—you're all too worried. The system is going to tell us what happens here as soon as we start voting, but I'll read it. "The bicameral portion of the Legislative Article be included in the body of the Constitution, with the unicameral portion as an alternative when presented to the electorate." Now, that is nothing but Mr.—that's nothing but your amendment to Mr. Felt's first proposition.

DELEGATE DRUM: Mr. Chairman, my amendment to Mr. Felt's proposition still doesn't clarify the issue that he brought two other issues into the thing—

CHAIRMAN GRAYBILL: Right.

DELEGATE DRUM: —and what I'm saying and what Mrs. Reichert is saying—

CHAIRMAN GRAYBILL: Right.

DELEGATE DRUM: —if we can get a clear-cut vote on this thing, it's going to get us all home a lot earlier and it will—

CHAIRMAN GRAYBILL: Now, the Chair is—

DELEGATE DRUM: —allow us all to make a better decision—

CHAIRMAN GRAYBILL: —the Chair is—

DELEGATE DRUM: —on how it's going to go on the ballot.

CHAIRMAN GRAYBILL: The Chair is perfectly willing to do whatever they want to do. I've got a Felt motion, I've got your amendment, I've got Davis' substitute motion and Harper's amendment, and we can go right up the line and find out where they stand; or they can all withdraw if they want to, but I can't make them.

Mr. Simon.

DELEGATE SIMON: I'm not sure that I understand all this, but I'm wondering if we are going to get off dead center at all until this body takes the stand that they must vote where they stand first, on bicameral and unicameral, and it seems to me that the simple thing that we should do first is to just take a vote of this body which we put into the—just as simple as that—put it in—the bicameral win, they go in the body; if the unicameral win, they go in the body. Then we don't lose anything.

CHAIRMAN GRAYBILL: That's Mr. Drum's proposal, Mr. Simon.

DELEGATE SIMON: But we're in a position, right now, that I read about today. There was three fellows. Each went into a liquor store, and each one of them bought a quart of whiskey. They went out under a tree—it was Tom, Dick and Harry—they drank each one of them a quart of whiskey. And then one of them left. The other two sat there, and in a little while, one of them said, "Now, one of us have got up and walked away, but we've got to find out which one." And that's about the position we're in.

CHAIRMAN GRAYBILL: Mr. Simon, you're absolutely right. That's Mr. Drum's point; but the Chair's point is that we have four motions, and if they want to withdraw them, they can. But we've debated them for an hour, and maybe we can get at them that way. Another way is to vote on them. So, does anybody want to speak any more, or shall we vote?

DELEGATES: Vote.

CHAIRMAN GRAYBILL: Very well, let's vote. The issue is on Mr. Harper's amendment. Now, to set the stage, Mr. Felt made a proposition, which is on ballot number—revised ballot number 2; the top part thereof is all that is retained, because Mr. Drum amended it and Mr. Davis limited it to the bicameral-unicameral issue and Mr. Harper reversed it to the unicameral-bicameral issue. And so that everyone understands each other, after we get through voting on this, we're not going to be through. You can still amend it and test your next theory out, and Mr. Blaylock can test his theory, and Mr. Drum can test his theory, and we can all test our theories as soon as we've had a few votes—so there's nothing magic or final about anything until you're all decided. All right, so many as shall be in favor—and we're going to have roll call votes, right?

UNIDENTIFIED DELEGATE: Right.

CHAIRMAN GRAYBILL: Okay. So many as shall be in favor of Mr. Harper's amendment, which is to include unicameral in the body and put bicameral out in whatever we end up with on Mr. Felt's motion, say Aye—put unicameral in and put bicameral out. Has every delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to change his vote? Mr. Joyce, do you wish to explain your vote?

DELEGATE JOYCE: I wish to explain my vote. I'm voting No even though I'm a unicameralist.

CHAIRMAN GRAYBILL: Very well. Does any other delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, we'll cast the ballot.

Aasheim	Nay
Anderson, J.H.	Nay
Anderson, O.	Nay
Arbanas	Aye
Arness	Absent
Aronow	Nay
Artz	Nay
Ask	Nay
Babcock	Nay
Barnard	Nay
Bates	Nay
Belcher	Nay
Berg	Nay
Berthelson	Aye
Blaylock	Nay
Blend	Aye
Bowman	Aye
Brazier	Nay
Brown	Nay
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Excused
Cate	Aye
Champoux	Nay
Choate	Aye
Conover	Nay
Cross	Aye
Dahood	Aye
Davis	Nay
Delaney	Nay
Driscoll	Nay
Drum	Nay
Eck	Aye
Erdmann	Absent
Eskildsen	Nay
Etchart	Nay
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Nay
Gysler	Nay
Habedank	Aye
Hanson, R.S.	Nay
Hanson, R.	Nay
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Nay
Johnson	Nay
Joyce	Nay
Kamhoot	Nay
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Nay
Mahoney	Nay
Mansfield	Nay
Martin	Nay
McCarvel	Nay
McDonough	Nay
McKeon	Aye
McNeil	Nay
Melvin	Nay
Monroe	Aye
Murray	Aye
Noble	Nay
Nutting	Nay
Payne	Aye
Pemberton	Nay
Rebal	Absent
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Nay
Rygg	Nay
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Nay
Speer	Aye
Studer	Aye
Sullivan	Nay
Swanberg	Aye
Toole	Excused
Van Buskirk	Nay
Vermillion	Aye
Wagner	Nay
Ward	Nay
Warden	Nay
Wilson	Nay
Woodmansey	Aye
Mr. Chairman	Nay

CLERK HANSON: Mr. Chairman, 44 delegates voting Aye, 51 voting No.

CHAIRMAN GRAYBILL: 44 having voted Aye and 51 having voted No, Mr. Harper's motion is defeated. We're now on Mr. Davis' motion to put bicameral in and unicameral out. Is there discussion?

(No response)

CHAIRMAN GRAYBILL: Very well, so many as shall be in favor of Mr. Davis' motion to put bicameral in and unicameral out, so many vote Aye; and so many as are opposed to Mr. Davis, vote No.

Mr. Blaylock.

DELEGATE BLAYLOCK: Mr. President, I'd like to explain my vote. Even though I'm for bicameral, I am voting No.

CHAIRMAN GRAYBILL: Very well. Has every delegate voted?

Mrs. Blaylock—Mrs. Bugbee.

DELEGATE BUGBEE: Mr. Chairman, even though I'm a unicameralist, I'm voting Yes on this.

CHAIRMAN GRAYBILL: Mrs. Eck.

DELEGATE ECK: Mr. Chairman, I'll say the same.

CHAIRMAN GRAYBILL: The same as which?

DELEGATE ECK: That I'm a unicameralist and am voting for bicameral in the body.

CHAIRMAN GRAYBILL: Okay, have all the delegates voted?

(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, we'll cast the ballot.

Aasheim	Aye
Anderson, J.H.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Absent
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Nay
Blaylock	Nay
Blend	Nay
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Nay
Cain	Aye
Campbell	Excused
Cate	Nay
Champoux	Aye
Choate	Nay
Conover	Nay
Cross	Aye
Dahood	Nay
Davis	Aye
Delaney	Aye
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Absent
Eskildsen	Aye
Etchart	Aye
Felt	Nay
Foster	Nay
Furlong	Nay
Garlington	Aye
Gysler	Aye
Habedank	Nay
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Nay
Harlow	Nay
Harper	Nay
Harrington	Nay
Heliker	Nay
Holland	Nay
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Nay
Leuthold	Nay
Loendorf	Nay
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye

McKeon	Nay
McNeil	Aye
Melvin	Aye
Monroe	Nay
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Nay
Pemberton	Aye
Rebal	Absent
Reichert	Nay
Robinson	Nay
Roeder	Aye
Rollins	Nay
Romney	Nay
Rygg	Aye
Scanlin	Nay
Schiltz	Nay
Siderius	Aye
Simon	Aye
Skari	Nay
Sparks	Aye
Speer	Nay
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Excused
Van Buskirk	Aye
Vermillion	Nay
Wagner	Aye
Ward	Aye
Warden	Nay
Wilson	Aye
Woodmansey	Nay
Mr. Chairman	Aye

CLERK HANSON: Mr. Chairman, 60 delegates voting Aye, 35 voting No.

CHAIRMAN GRAYBILL: 60 delegates having voted Aye, 35 voting No, Mr. Davis' substitute motion prevails. Now, Mr. Davis'—let's understand where we stand. Mr. Davis' substitute motion was to use only the top half of revised ballot 2. In other words, he says that we should have a ballot that says: "For the proposed Constitution with the bicameral in" and "Against the proposed Constitution with the bicameral in"; and then, secondly, to replace that by "unicameral" on the outside. He said nothing about the other two things. Now, at this point, I think Mr. Felt and Mr. Drum are out and we now have the basic proposition which can be amended into any fashion that you want to amend it. We can either put the Joyce matter or we can put the Blaylock matter or we can put some other matter.

Mr. Blaylock—Mr. Joyce, he was up first. Let's let him—not this time but a long time ago—let's start with Mr. Blaylock.

DELEGATE BLAYLOCK: Mr. President, I move as a substitute motion that we put the first ballot—or use the first ballot when this goes to the people in June.

CHAIRMAN GRAYBILL: Use what's called the "official"—

DELEGATE BLAYLOCK: Yes, called the "official ballot".

CHAIRMAN GRAYBILL: Called "official ballot" for purposes of identification. Now, what this means—he's proposed that we use a ballot like the official ballot that was handed out to you today. Now, what this means is that neither bicameral nor unicameral would be in, but they would be a coequal alternative; and that's his substitute motion.

Mr. Dahood.

DELEGATE DAHOOD: Will Mr. Blaylock yield to a question?

CHAIRMAN GRAYBILL: Mr. Blaylock?

DELEGATE BLAYLOCK: Yes, Mr. Dahood.

DELEGATE DAHOOD: You know what the question is going to be. Now, Mr. Blaylock, in the event that neither of the propositions or neither of the alternatives receive 50 percent plus one vote, what happens to the legislative body in Montana?

DELEGATE BLAYLOCK: Well, this is why I used the phrase, Mr. Dahood, "go for broke—take a chance on the people voting for this". Now, I would believe—or my own feeling would be at this point, in order to assuage your fears and the other fears in here, that I would hope that Mrs. Reichert, at this point, would amend this to put in the—both parts of the bicameral and the unicameral, except for the first 1, 2 and 3. That's what I hoped for.

CHAIRMAN GRAYBILL: Mr. Holland.

DELEGATE HOLLAND: I have a motion to amend the—Mr. Blaylock's motion to amend so that if—in the event that 2-A and 2-B do not receive a majority plus one, that thereupon the Legislative Article would fail and that Article V of the present Constitution would be incorporated into the remainder of the new Constitution. For the information of the delegates, Article V is the old Legislative Article.

CHAIRMAN GRAYBILL: All right, Mr. Holland has a substitute—or has an amendment—

DELEGATE HOLLAND: I make this—

CHAIRMAN GRAYBILL: —which says that if—that we're going to use the Blaylock format now—and if neither 2-A or 2-B get a majority, then old Article V is effective.

DELEGATE HOLLAND: Mr. Chairman.

CHAIRMAN GRAYBILL: Is that right?

DELEGATE HOLLAND: Yes.
Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Holland.

DELEGATE HOLLAND: The State of Illinois had precisely the same problem we had. They had a constitution where it required a majority plus—a majority of the voters had to adopt the new constitution; so therefore, on every side issue, they provided that in the event that a majority did not adopt the particular side issue, that they would adopt—that the old—the portion of the old constitution that would cover the article would be there. I do this precisely so we'll not be branded as the biggest 100 fools in the State of—or in the United States of America. In the event—and I see this as a real possibility—that we would adopt a constitution providing in part for a three-unit body—Legislative, Executive and Judicial—and not have a Legislative branch; and this we cannot allow to happen. We kicked around in committee the possibility of substituting different portions for it. We decided the thing was unrealistic. Suggest that in the—I suggest to you that in the State of Illinois, all of the side—the constitution itself and all of the side issues each received a majority, so they didn't have to fall back upon it. And I'm inclined to think that unicameral—this is the only way that unicameral and bicameral will ever get a true test from the voters, but I cannot go along with Mr. Blaylock's suggestion that we should just let the thing go. In effect, what I'm saying is, Mr. Blaylock is right. Let's give the voters a clear choice without one or the other being in the body; but in the event of a majority, which I submit the chances are very, very small, we still are not going to be in the foolish position of having a constitution without a legislative body.

CHAIRMAN GRAYBILL: Mrs. Bugbee.

DELEGATE BUGBEE: Mr. Chairman, I think I need your help. I'd like to explain something. It seems to me that the Blaylock and the Holland amendment—this is another subject, it's on a basically different kind of a ballot. What I would like to do is to finish up where we've started now. We have now the bicameral in the body of the material, and I would like to suggest that the unicameral—and then, on the second—underneath that, that the unicameral be mentioned first and then the bicameral as alternatives to that. You see, I'd like to get back on Mr. Davis' motion and get that thing cleaned up through the voting process and then go into the other so we have absolute alternatives that we eventually vote on.

CHAIRMAN GRAYBILL: Well, then, why don't you oppose the Holland amendment and vote No; and if it's defeated, fine; and if it's voted Yes, then move to amend it after it's in. But to just force me to switch horses now, it merely leaves a dogleg situation here. We now have Mr. Blaylock's substitute motion, which did have the effect of raising his issue, and we have Mr. Holland's amendment to that, which has the effect of putting into effect Article V of the old Constitution if Mr. Blaylock's propositions don't receive 51—a majority.
Mr. Berg.

DELEGATE BERG: Mr. Chairman, as I said before, I repeat again, I am opposed to Mr. Blaylock's motion. I am equally opposed, or not quite so violently opposed, to Mr. Holland's amendment for this reason—that if you accepted Mr. Blaylock's proposition without Mr. Holland's amendment, you may be sure that you have decimated the Legislative Article and left the whole matter for the courts to eventually do something with; whether they could repair the damage or not is highly problematical. If, on the other hand, you were to adopt Mr. Holland's amendment, at least this—you would know that you were going back to the 1899 Legislature, which would not have any of the reforms that we have today. It would not have annual sessions. It would not have the right to reconvene themselves. It would be limited to 60 calendar days. It would not have the right to reconvene itself. All of these things would go down the drain if that is the risk you take, and I cannot overemphasize how great that risk actually is, because you must realize that those who vote against the Constitution are not going to be materially concerned with whether you have bicameral or unicameral, so that when you come to this second issue on the ballot, you have a very poor chance of ever having a majority for either bicameral or unicameral if you leave it in this state. In my mind, we have here, right now, the stake of this Constitution. All the reforms that are in it are at stake, and we'd better get this issue straightened around so that we do not lose the Constitution, regardless of whether we have unicameral or bicameral. But let us not risk the chance of going back to the 1899 Constitution Legislative Article, either in whole or in part.

CHAIRMAN GRAYBILL: Marie, do you need to change the tape? Very well, we'll stand at ease for a moment while we change the tape.

(At ease while tape changed)

CHAIRMAN GRAYBILL: We'll be in order. Members of the body, we'll be in order. We'll continue to debate and vote for awhile, and I think we might solve this.

Mr. Harper, you were up.

DELEGATE HARPER: Yes. Mr. Chairman, let me just ask you to reason one more little time here. We started this Convention the 17th day of January. I don't know when it was we went into the Legislative Committee room to start meeting, but the first thing we decided was that we weren't going to be in there if we didn't try to write the best of both. We came back to the floor of this Convention, everybody said, "that's right". We worked through the unicameral, we worked through the bicameral, we got the best of both. We deliberately wrote it so that, in almost every detail, the same wording can be used for unicameral or can be used for bicameral. We suggested to the committee that something like this—they could—and I'm asking why this couldn't be written into the Constitution like this: "If the unicameral alternative listed as issue number 1 on the ballot prevails, the following shall be sections 1, 2 and 3." That's where we say unicameral structure, give the size, and so forth. "If the bicameral alternative listed as issue number 1 on the ballot prevails, the following shall be Sections 1, 2 and 3." Okay, we've got that. That's the way Illinois did with theirs. That's the way, as I understand, North Dakota and some of the others are doing with theirs. No hassle, it's just right in there. Now, then, beginning with Section 4—Qualifications—I'm almost tempted to ask you to take that article out, and we could go down through it. You go all the way through—only with certain stylistic changes that anybody who didn't know anything could make, about one house or two house—No, I'm not—I'm thinking in terms of anybody being able to read. You come up with the idea that if unicameral passes, Sections 1, 2 or 3; if bicameral passes, then it's structure. Okay, now let's take Dave Holland's suggestion. If neither one passes, the structure applying from the old Constitution, which would be bicameral, would go in. Now, admittedly, it wouldn't have any—it doesn't have a number on it, because there's no limit—bottom or top limit—but it seems to me that no court—no court would say that that entire article is gone because your proposition on Sections 1, 2 and 3 didn't pass. I just can't see it. And it would be easily drawn together in an article that makes sense. So I don't think we've got to pass up Chet's proposition altogether. Now, then, the second thing. You know, all during the discussion of the Executive Article and the several other articles, every time things would come up, we said, "Wait a minute; there's going to be a great section of the public decidedly For or Against." Now, you tell me one other issue where people are more divided in a knowledgeable way than on this issue. So we wanted not to antagonize one whole bloc of voters, and so we deliberately went that fashion, and I still think we can go that fashion.

CHAIRMAN GRAYBILL: Mr. Harper, if Mr. Blaylock's motion prevails, I'll certainly offer you an opportunity to amend or to add to fix it so that 4 through 12 or something are identical, and you can do what you say. Would you yield for one question?

DELEGATE HARPER: Yes—or more.

CHAIRMAN GRAYBILL: Assuming we fixed that up and did all of that and then they had the election and neither unicameral or bicameral was adopted—

DELEGATE HARPER: Right.

CHAIRMAN GRAYBILL: —would you rather have Holland's old amendment—or some of the language from the old Constitution for Holland, or would you rather have the new bicameral article?

DELEGATE HARPER: For Sections 1, 2 and 3?

CHAIRMAN GRAYBILL: Right.

DELEGATE HARPER: I would prefer to have the new.

CHAIRMAN GRAYBILL: Very well, that's Mr. Joyce's proposition.

DELEGATE HARPER: Yes, except that we—if we put these two out here in an even battle, it's one thing. To put one in the body of the Constitution is just—well, you, yourself, and several others, have pointed out it practically affords no real alternative. Unless that thing out on the alternative has got about 75 percent of the voters in favor of it, it's not going to carry a majority.

CHAIRMAN GRAYBILL: Mr. Roeder, you haven't been up for a long time.

DELEGATE ROEDER: Sir, I haven't been up today. What Mr. Harper and what Mrs. Reichert really want is part of the Torrey Johnson resolution. They want it as it applies to the Legislative Article. Now, last night Mrs. Reichert said she's a very persistent woman. I say "Amen" to that. Now, Mr. Harper says that anybody who can read can interpolate the common elements of the bicameral and unicameral proposals where they are not incompatible, whatever that would mean, with the current Article V. And he says anyone who can read can do that. Well, there are some lawyers on the Style and Drafting Committee who are going to get up here in a series now and explain to you why Mr. Harper's assertion that anybody who can read can do that, is wrong. If Mr. Harper's proposal eventually prevails, Mr. Chairman, I wish to be removed as a member of the Style Committee, because we're going to be here a very long time on the Style Committee and we're going to have to take all the machinery downstairs and retape it. So please listen carefully as our lawyers explain to you why what Harper and Mrs. Reichert are after is not very easy to do. Our legal consultant says it's not possible to do. Now, I appreciate the motives behind Mr. Harper and Mrs. Reichert's persistence; that is, they feel this is the only way we are ever going to give the people a fair choice. Maybe that's the case, but it's not a possible one, in my eyes. And I would go back to Mr. Felt's notion that we have to do the best we can within the limitations that were imposed by some amanuensis who copied language and didn't even have any idea what he was doing to us. But we can't do anything like that. There are no political Immaculate Conceptions. (Laughter)

CHAIRMAN GRAYBILL: Mr. Harper is not convinced of that. (Laughter)

Mr. Joyce.

DELEGATE JOYCE: Mr. Chairman, I move, as a substitute motion for all motions pending, that this—

CHAIRMAN GRAYBILL: No, we've got one substitute motion and an amendment to it, and we can't go anywhere till we dispose of them, Mr. Joyce.

DELEGATE JOYCE: You mean—I thought we always got three.

CHAIRMAN GRAYBILL: Well, you have three, but when you get to a substitute—and we really have three now.

DELEGATE JOYCE: No, we don't.

CHAIRMAN GRAYBILL: Yes, we do.

DELEGATE JOYCE: We have Blaylock's—

CHAIRMAN GRAYBILL: Would you like me to tell you what they are? They're Mr. Davis' bicameral in and unicameral out, Mr. Blaylock's use the official ballot, and Mr. Holland's amendment to Mr. Blaylock's. Any time you get a substitute motion, you only get one amendment.

DELEGATE JOYCE: Well, Mr. Chairman, may I direct a question to Delegate Holland, then?

CHAIRMAN GRAYBILL: Mr. Holland.

DELEGATE HOLLAND: Mr. Joyce.

DELEGATE JOYCE: Mr. Holland, would you mind withdrawing your motion for the time being and then, if Blaylock's carries, put it in again?

CHAIRMAN GRAYBILL: Now, before you say—

DELEGATE HOLLAND: I certainly would, Mr. Joyce.

CHAIRMAN GRAYBILL: Before you say—

DELEGATE JOYCE: You'll withdraw?

DELEGATE HOLLAND: I certainly would mind doing it. (Laughter)

DELEGATE JOYCE: You wouldn't—you won't withdraw, I take it.

CHAIRMAN GRAYBILL: And, Mr. Joyce, your motion—you see, we've got a substitute motion, and whatever you do would have to be material to the substitute motion. It'd have to be only an amendment, and that may be difficult for you to do at this point.

Mr. Davis.

DELEGATE DAVIS: Mr. President, you mentioned you had my motion pending. I think that my motion has already been passed; it's no longer pending. Isn't that correct?

CHAIRMAN GRAYBILL: Well, I guess it's—I guess that's right, except it's incomplete in terms of the—we haven't got a proposition yet. It's only partly complete. We've settled on that part if that's the way it goes. All right, now, all we have to do is decide whether we're going to do what Holland and Blaylock think, and in case they—in case Blaylock prevails, then Davis is out and we're on a new proposition. You may amend Blaylock's back, but you can't use the—the Davis motion uses Mr. Felt's basis and the Blaylock motion uses an entirely different theory. Now, if you don't understand that, I'll explain it to you. Mr. Blaylock's was a substitute motion. Mr. Davis' motion says that we're going—it's on—it's based on what's called here "revised ballot number 2" and it says, "For the proposed Constitution, including bicameral, and Against the proposed Constitution including bicameral"; and then it's got on the outside for replacing unicameral. But Mr. Blaylock's motion says, "For the Constitution; Against the Constitution"; then 2-A, "For unicameral, Against—or For bicameral". So, they're entirely different propositions and one is a substitute motion for the other. And then we have the—Mr. Holland's amendment, which simply is a refinement on Mr. Blaylock's.

Mr. Felt.

DELEGATE FELT: As a point of order, I believe it would be, Mr. Chairman—and certainly conceding that the procedural situation has become somewhat scrambled—I feel that when Mr. Davis' motion carried, those that preceded it, including mine, were out of the picture totally—

CHAIRMAN GRAYBILL: Right.

DELEGATE FELT: —but that disposed of the main question, and I think that Mr. Blaylock—while I did notice he said "substitute motion" when he placed it, it was actually a main motion, because it started fresh. If I am correct in that, then it would appear to me that the Joyce amendment would be in order as a substitute motion.

CHAIRMAN GRAYBILL: Well, but, Mr. Felt, it isn't fresh, because Mr. Davis won and Mr. Davis is still in the picture.

DELEGATE FELT: Well—

CHAIRMAN GRAYBILL: We adopted Mr. Davis'. We can't just throw it away, having adopted it. That's where we are right now. We have the bicameral in and unicameral out on a ballot that we haven't touched the two other problems but which we've solved the top part until it's amended out.

DELEGATE FELT: Well, I would agree that the Blaylock amendment is inconsistent with the—

CHAIRMAN GRAYBILL: And therefore—

DELEGATE FELT: —action taken on the Davis motion, but even though it is, as long as the motion is entertained, I think that it is a main motion even though it would have the effect of negating what had been previously done. Negating.

CHAIRMAN GRAYBILL: Well, all right. You know, I'm trying to keep us on one or two theories at the same time instead of three or four; and we're on a theory that Mr. Blaylock has enunciated, and we ought to find out whether it prevails or whether it doesn't.

Mr. Swanberg.

DELEGATE SWANBERG: I would like to ask the Chair a question. If we have the bicameral provision in the body of the Constitution, with the unicameral provision as an alternate, will the voter get allowed—be allowed to vote twice?

CHAIRMAN GRAYBILL: Certainly. He'll be allowed to vote on the body of the thing and he'll be allowed to vote whether or not he wants—he'll be allowed to vote for the unicameral.

DELEGATE SWANBERG: Yes. Thank you very much.

CHAIRMAN GRAYBILL: All right, Mrs. Bates.

DELEGATE BATES: Mr. Chairman, I want some clarification here. Just exactly what was Blaylock's amendment? Isn't it—

CHAIRMAN GRAYBILL: All right, I'll restate it before we put it. Are you ready to vote? I'll restate it. Now, the situation is this. Mr. Davis proposed that we have a constitutional ballot which says: "Vote For the Constitution with the bicameral article in or vote Against it with the bicameral article in—vote For or Against the Constitution with the bicameral article in". As a—and, then, as an outside subproposition, you may vote for the unicameral article, to substitute it in. That's the proposition that's up. But Mr. Blaylock made a substitute motion that, instead of that, we use a ballot which is now called the "official ballot", before you, and it doesn't have the bicameral in it at all. It has neither the bicameral nor the unicameral in the Constitution. It has "For the proposed Constitution, Against the proposed Constitution"; and then it has "For a unicameral or For a bicameral" as its second proposition; and, in fact, it has the same on 3 and 4, as you can see if you look at it. Now, that's what we're voting on, except that Mr. Holland said if 2-A and 2-B don't get a majority, then we will automatically assume and write it on the ballot that the old Constitution Article V becomes the law—or remains the law.

DELEGATE BATES: If we vote for Mr. Blaylock's motion, we are then, again, taking out the bicameral—out of the body?

CHAIRMAN GRAYBILL: You certainly are.

DELEGATE BATES: Okay.

CHAIRMAN GRAYBILL: Mr. Aasheim.

DELEGATE AASHEIM: I'll have to rise again to a point of order.

CHAIRMAN GRAYBILL: Okay.

DELEGATE AASHEIM: Mr. Davis' was a main motion, and it carried. If Mr. Blaylock—and I hesitate to do this, Chet—you will have to have a vote on the prevailing side to reconsider this proposition.

CHAIRMAN GRAYBILL: No, I don't think you will, because it's a substitute motion and it—and Mr. Davis'—you may call it a main motion if you want to, and I haven't said whether it is or not—but Mr. Davis does not have a total ballot before him. He's only got a piece of the ballot.

DELEGATE AASHEIM: Will you state Mr. Felt's motion—original motion.

CHAIRMAN GRAYBILL: Sure. Mr. Felt's motion has four—has three parts to it: one, an alternative with the unicameral in and an alternative with the bicameral out; then it's got the gambling alternative; and then it's got the death alternative. Mr. Drum amended that and said he wanted the bicameral in and the unicameral out, plus 2 and 3. Mr. Davis came along and said, "I move that we drop 2 and 3 and just decide 1."

DELEGATE AASHEIM: In other words, Mr. Davis' motion carried and negated Mr. Drum's and Mr.—

CHAIRMAN GRAYBILL: And Mr. Felt's.

DELEGATE AASHEIM: —Felt's. So, this is a major motion, and we—the Convention has decided that the ballot should contain the bicameral as a major issue with the unicameral as a side issue. Consequently, Mr. Blaylock's motion is out of order, and I have to challenge the motion of the Chair if you—

CHAIRMAN GRAYBILL: Well, you may challenge it if you want to, but the Chair is going to rule that it isn't finished and the Chair—let's put your challenge, and we'll find out where we stand. All right, Mr. Aasheim challenges the Chair on my ruling that Mr. Blaylock's motion is in order. Is that correct?

DELEGATE AASHEIM: That's right.

CHAIRMAN GRAYBILL: All right. Now, the Chair has an opportunity to explain his position, so the Chair is going to explain that we have several possibilities before us, and it has always been the Chair's desire to allow all of you to test your theories in this marketplace that we call this Convention, and until we have finally moved the final adoption of any article, we have allowed freely amendments. We don't have to reconsider until we've moved that when this committee does arise and report after da-da-da-da-da, we don't have to even reconsider within that time. I have always, throughout this Convention, allowed anybody to put any motion, because I want your ideas tested and this body has to finally be brought to the point where it honestly and fairly arrives at something by a majority. Now, there are several untested ideas yet floating around in the marketplace. Mr. Blaylock has one, Mr. Joyce has one, and Mr. Harper possibly has one—he's got a part of a one. Secondly, the motion that we have, which is to put bicameral in and leave unicameral out, does not, in fact, solve the whole ballot problem, which is the issue before this body. Now, if you want to let the bicameralists steal the march here and say that they get in on this thing, then sustain Mr. Aasheim; but if you want to hear the rest of them out—

(Interruption from the floor—Inaudible)

CHAIRMAN GRAYBILL: Now, wait a minute. The Chair is going to finish. If you want to hear the rest of them out before you decide what this ballot is going to look like, then you sustain the Chair. Now, if you want to speak, Mr. Drum, you may; but when you finish speaking, I will reserve the right to again state the Chair's position because the Chair has an absolute right to be last on this.

You may speak, Mr. Drum.

DELEGATE DRUM: Mr. Chairman, I rise to a point of, I believe, personal privilege. The Chair is expressing—

CHAIRMAN GRAYBILL: State your point.

DELEGATE DRUM: —an opinion. I think you should leave the Chair if you are going to say the bicameralists are stealing the march. You're showing an opinion. You're persuading the people to follow your line of thinking, and I don't think it's right for the Chair to do that.

CHAIRMAN GRAYBILL: Well, I—your point of privilege has been made, so there's no use of ruling on it, but the rules do provide that the presiding officer may cast his vote and that I have a right to explain my decision. Now, I haven't libeled or slandered anybody, but I think—my point is that if the bicameralists are able to now shut off debate so that we don't consider the others, they will have then got theirs in. I'm unwilling to do that until everyone's had his say. So if you want to vote that way—for the bicameralists, you do it. I don't think I'm slandering anybody. I'm probably—in fact, I voted bicameral twice so far this afternoon. But I will certainly state my position, and if you don't like it, I'm sorry. And you can raise another point of privilege if you like.

Mr. Drum, for what purpose do you rise?

DELEGATE DRUM: I rise to inquire about that amendment that I put in about an hour and 45 minutes ago that has never been brought before this body, and there have been about four or five different motions that have come up, and it has not received due consideration—

CHAIRMAN GRAYBILL: That's right, Mr. Drum—

DELEGATE DRUM: —and it would have solved the problem.

CHAIRMAN GRAYBILL: —and your motion and your amendment is after the rest of these, and if I ever get a chance, you're going to have a chance to make it. But if you prevail in supporting him, you're not going to have a chance to make it and neither is Mrs. Bates and neither are four or five other people. I'm against cutting off debate. If you want to cut off debate on the bicameral going in, vote with Mr. Aasheim.

For what purpose do you rise, Mr. Davis?

DELEGATE DAVIS: A question. From some of your conversation, is it your understanding, Mr. President, that we're trying to attempt, by my motion, not to further consider the death penalty or gambling?

CHAIRMAN GRAYBILL: No, I don't think that's your motion, and I don't even think that's Mr. Aasheim's. Mr. Aasheim is trying to freeze into the situation that bicameral must be in, when I don't think we have closed off debate on that issue. That's the point. And if he prevails, it will be on your half motion—which only half deals with the ballot.

Mr. Aasheim, for what purpose do you rise?

DELEGATE AASHEIM: I want to talk, too, on the motion to challenge—

CHAIRMAN GRAYBILL: Pardon? I can't hear you.

DELEGATE AASHEIM: I want to express my feeling here. I'm not trying to freeze—

CHAIRMAN GRAYBILL: Well, now, Mr. Aasheim, you expressed your opinion; and the Chair has the right to express his; and I don't think you need to express it after me, because then I only have to express it over.

DELEGATE AASHEIM: Mr. Chairman, you said that I am trying to freeze something into this thing, and I'm not trying to do that, Mr. Chairman.

CHAIRMAN GRAYBILL: Well, all right, you may speak then, Mr. Aasheim.

DELEGATE AASHEIM: I am trying—we have pretty much decided now, by a vote, that the bicameral is supposed to be on the proposition with the Constitution, and I feel this: that Mr. Blaylock, if he wants to amend this, that he should move to amend this—Mr. Davis' motion—rather than bring in another major substantive motion here. That's my contention, because I'm certainly not—I'm not happy, I'm not gloating over the fact that we got the bicameral in the main issue at all, because I would like to have—like Mrs. Reichert said—would like to have a choice, but it's apparent we can't have that. And now, then, if we can, through amendment of Mr. Davis' proposition, fine. And I think that's the course we should take; and Mr. Blaylock's motion, I think, is out of order.

CHAIRMAN GRAYBILL: Well, I understand you think it's out of order, and now so that I'll clarify it again, I'd like to point out that the Chair has never in this Convention ruled that no one could amend or change something. In other words, you don't have to move to reconsider until after we put the proposition that when this committee does rise and report and finally adopt something. Now, we have not done that about the ballot yet, so your proposition that it takes a motion to reconsider is wrong, in view of what the Chair has done all along up till today, and I asked the body to let me continue to do what I've always done. Secondly, it's always been the Chair's proposition that any time anybody had a proposal, we wanted to let it be aired. There are still proposals before the body which cannot be aired if your—if you prevail. Now, the issue is on the challenge of the Chair. The vote will be by roll call. If you sustain the challenge, you sustain Mr. Aasheim; if you sustain the Chair, you vote No. So vote Yes to sustain the challenge and vote No to sustain the Chair.

For what purpose do you rise, Mr. Studer?

DELEGATE STUDER: Mr. President, before you put that question, I rise for personal privilege. I want to get this straight before I vote. I don't remember Mr. Blaylock even making a motion. As I understood it, Mr. Harper had a submotion—sub. to Davis and it was voted down. Blaylock said before that that if we would vote those two down, he would suggest—he suggested that if we voted those two down, as I understood it, that then he would come in with his motion.

CHAIRMAN GRAYBILL: Right.

DELEGATE STUDER: We voted down Harper's—

CHAIRMAN GRAYBILL: Right.

DELEGATE STUDER: —but we accepted Davis'—

CHAIRMAN GRAYBILL: Right.

DELEGATE STUDER: —so now we have it in.

CHAIRMAN GRAYBILL: And then, after that—

DELEGATE STUDER: I don't remember Blaylock making a motion.

CHAIRMAN GRAYBILL: Right. Well, after that, Mr. Studer, Mr. Blaylock did arise, and I did recognize Mr. Blaylock and he did make his motion, and then Mr. Holland amended it.

DELEGATE STUDER: Okay.

CHAIRMAN GRAYBILL: Okay, the ballot's open. So many delegates as want to sustain Mr. Aasheim in his challenge, vote Aye; so many as want to sustain the Chair, vote No. Have all the delegates voted?

(No response)

CHAIRMAN GRAYBILL: Does any delegate want to change his vote?

(No response)

CHAIRMAN GRAYBILL: Okay, take the ballot.

Aasheim	Aye
Anderson, J.H.	Aye
Anderson, O.	Absent
Arbanas	Absent
Arness	Absent
Aronow	Aye
Artz	Aye
Ask	Absent
Babcock	Absent
Barnard	Aye
Bates	Aye
Belcher	Nay
Berg	Nay
Berthelson	Nay
Blaylock	Nay
Blend	Nay
Bowman	Nay
Brazier	Nay
Brown	Nay

Bugbee	Absent
Burkhardt	Nay
Cain	Nay
Campbell	Excused
Cate	Absent
Champoux	Absent
Choate	Nay
Conover	Nay
Cross	Nay
Dahood	Absent
Davis	Absent
Delaney	Aye
Driscoll	Aye
Drum	Aye
Eck	Absent
Erdmann	Absent
Eskildsen	Absent
Etchart	Nay
Felt	Nay
Foster	Nay
Furlong	Absent
Garlington	Nay
Gysler	Aye
Habedank	Nay
Hanson, R.S.	Nay
Hanson, R.	Nay
Harbaugh	Nay
Harlow	Absent
Harper	Absent
Harrington	Nay
Heliker	Nay
Holland	Nay
Jacobsen	Nay
James	Aye
Johnson	Aye
Joyce	Nay
Kamhoot	Aye
Kelleher	Nay
Leuthold	Nay
Loendorf	Nay
Lorello	Nay
Mahoney	Aye
Mansfield	Nay
Martin	Absent
McCarvel	Nay
McDonough	Nay
McKeon	Nay
McNeil	Nay
Melvin	Nay
Monroe	Nay
Murray	Nay
Noble	Nay
Nutting	Nay
Payne	Nay
Pemberton	Nay
Rebal	Absent
Reichert	Nay
Robinson	Nay
Roeder	Nay
Rollins	Nay
Romney	Nay
Rygg	Nay
Scanlin	Absent
Schiltz	Nay
Siderius	Nay
Simon	Nay
Skari	Nay
Sparks	Nay
Speer	Nay
Studer	Aye
Sullivan	Nay
Swanberg	Nay
Toole	Excused
Van Buskirk	Nay
Vermillion	Nay
Wagner	Nay
Ward	Nay
Warden	Nay
Wilson	Aye
Woodmansey	Nay
Mr. President	Nay

CLERK HANSON: Mr. Chairman, 17 delegates voting Aye, 63 voting No.

CHAIRMAN GRAYBILL: 63 having voted No and 17 Aye, the challenge to the Chair is not sustained. Now, we're debating Mr. Holland's amendment, which is that if the Blaylock amendment happened to prevail and neither the bicameral nor the unicameral got a majority, that Article V of the old Constitution should then be substituted—or should then be considered back in effect. Is there further discussion of Mr. Holland's amendment?

Mr. Dahood.

DELEGATE DAHOOD: Mr. Chairman, I take it I'm correct that we're still sitting as a Committee of the Whole?

CHAIRMAN GRAYBILL: Right.

DELEGATE DAHOOD: I move that this Committee rise and report progress and beg leave to sit again.

CHAIRMAN GRAYBILL: Very well, the motion is that this committee rise and report progress. All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

CHAIRMAN GRAYBILL: The Ayes have it, and so ordered. We'll write it up.

(Proceedings reverted to Convention with President Graybill presiding)

PRESIDENT GRAYBILL: Mr. Murray— Will the clerk please read the Committee of the Whole report.

CLERK HANSON: "March 21, 1972. Mr. President. We, your Committee of the Whole, having had under consideration business on General Orders, recommend as follows: that the Committee rise and report progress and beg leave to sit again. Signed: Graybill, Chairman."

PRESIDENT GRAYBILL: Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. President, I move the adoption of the Committee of the Whole report.

PRESIDENT GRAYBILL: The motion is to adopt the Committee of the Whole report that we rise and beg leave to sit again. All in favor, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed? (No response)

PRESIDENT GRAYBILL: So ordered. Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. President, I move we stand adjourned until Wednesday, March 22nd, 1972, at 9 o'clock, a.m.

PRESIDENT GRAYBILL: The motion is to adjourn until 9 o'clock tomorrow morning. Mr. Schiltz, I understand you want a meeting, at 8 o'clock in the morning, of Style and Drafting.

DELEGATE SCHILTZ: Right.

PRESIDENT GRAYBILL: Very well; all in favor of the motion to adjourn until 9:00, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No. (No response)

PRESIDENT GRAYBILL: So ordered.

(Convention adjourned at 6:15 p.m.)

March 22, 1972
9:25 a.m.

Fifty-Second Day

Convention Hall
Helena, Montana

DELEGATE HARBAUGH: Let us pray. God, our Father, in these weeks together we have each become aware of our individual strengths and weaknesses. We confess that from time to time we have each yielded to our pet prejudices without thinking of the common good, but we thank You, our Father, that in Your wisdom You have called us together as a collective body and that it is the will of that body which prevails, rather than the will of any one individual. As we finalize our work this week, give us grace and humility to speak not of what we have done as individuals but what we have done as a Convention, and as we reflect on the mechanics of this process which is greater than any one of us, may we be made aware of the movement of Your spirit, which is greater and above and among all of the processes of men. Amen.

PRESIDENT GRAYBILL: We'll take attendance this morning by voting Aye on the voting machines.

CLERK HANSON: Mr. President, may Delegate Campbell be excused this day?

PRESIDENT GRAYBILL: Yes.

CLERK HANSON: Delegate Cate, Delegate Dahood, Delegate Studer, Delegate Rygg, Delegate Robinson.

PRESIDENT GRAYBILL: Will you read the absences again.

CLERK HANSON: Delegate Rygg.

PRESIDENT GRAYBILL: Very well, take the ballot.

Aasheim	Present
Anderson, J.H.	Present
Anderson, O.	Present
Arbanas	Present
Arness	Present
Aronow	Present
Artz	Present
Ask	Present
Babcock	Present
Barnard	Present
Bates	Present
Belcher	Present
Berg	Present
Berthelson	Present
Blaylock	Present
Blend	Present
Bowman	Present
Brazier	Present
Brown	Present
Bugbee	Present
Burkhardt	Present
Cain	Present
Campbell	Excused
Cate	Present
Champoux	Present
Choate	Present
Conover	Present
Cross	Present
Dahood	Present
Davis	Present
Delaney	Present
Driscoll	Present
Drum	Present
Eck	Present
Erdmann	Present
Eskildsen	Present
Etchart	Present
Felt	Present
Foster	Present
Furlong	Present
Garlington	Present
Gysler	Present
Habedank	Present
Hanson, R.S.	Present
Hanson, R.	Present
Harbaugh	Present
Harlow	Present
Harper	Present
Harrington	Present
Heliker	Present
Holland	Present
Jacobsen	Present
James	Present
Johnson	Present
Joyce	Present
Kamhoot	Present
Kelleher	Present
Leuthold	Present
Loendorf	Present
Lorello	Present
Mahoney	Present
Mansfield	Present
Martin	Present
McCarvel	Present
McDonough	Present
McKeon	Present
McNeil	Present

Melvin	Present
Monroe	Present
Murray	Present
Noble	Present
Nutting	Present
Payne	Present
Pemberton	Present
Rebal	Present
Reichert	Present
Robinson	Present
Roeder	Present
Rollins	Present
Romney	Present
Rygg	Absent
Scanlin	Present
Schiltz	Present
Siderius	Present
Simon	Present
Skari	Present
Sparks	Present
Speer	Present
Studer	Present
Sullivan	Present
Swanberg	Present
Toole	Present
Van Buskirk	Present
Vermillion	Present
Wagner	Present
Ward	Present
Warden	Present
Wilson	Present
Woodmansey	Present
Mr. President	Present

CLERK HANSON: Mr. President, 98 delegates present, 1 excused and 1 absent.

PRESIDENT GRAYBILL: Very well, the journal may so show. Reports of Standing Committees.

CLERK HANSON: "Mr. President. We, your Committee on Style, Drafting, Transition and Submission, herewith transmits its final report for consideration of the Convention. Sincerely, John M. Schiltz, Chairman."

PRESIDENT GRAYBILL: The Final Report of Style and Drafting is placed on General Orders. Reports of Select Committees.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Communications.

CLERK HANSON: "Helena, Montana; March 22, 1972. Honorable Leo Graybill, Jr., President, Montana Constitutional Convention, Capitol, Helena, Montana. Dear Mr. President: In accordance with the provisions of Section 15(2), Extraordinary Senate Bill No. 6, Chapter EX-1, Laws of Montana 1971, the license of Henry E. Lohr, license number 3-72, has been reinstated as of March 21, 1972. Sincerely yours, Frank Murray, Secretary of State."

PRESIDENT GRAYBILL: Very well, I would like to explain briefly under Communications where the Chair thinks we are this morning, because some of you may not understand yet. We are going down the Order of Business and when we get to the Committee on Style and Drafting's Final Report, we are going to take it under General Orders first today. In the meantime, the Style and Drafting Committee has met and is working up a ballot proposal; and when that's finished, either late this morning or right after lunch, we will consider their ballot proposal and we will continue the debate that we had yesterday on the ballot; but while that matter is being ironed out in terms of the Style and Drafting coming up with their final ballot proposal, we will go ahead and adopt on Style and Drafting, article by article, the minor changes they have made in the constitutional document. And when we have finished—so you'll understand—when we have finished adopting it article by article in Committee of the Whole, we will move it all to Adoption, Order of Business Number 6; and we will adopt it article by article in Number 6, finally, except that when we finish adopting it all article by article and when we have finished the ballot and moved it and the other articles, we're going to have to skip up into Adoption, then we will adopt it finally in Order of Business Number 6 as a whole. And the present plan is to adopt it today or tomorrow and then sign it on Friday morning, as you know, at 10:00. But we will finish the adoption whenever we are able to, as soon as we arrive at the ballot and settle the Style and Drafting. So, that's what we're doing. We're going to start on this and go to the ballot later. Very well, Order of Business Number 4, Introduction.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number 5, Final Consideration.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number 6, Adoption.

CLERK HANSON: None.

PRESIDENT GRAYBILL: There's none there till we put it there today. Order of Business Number 7, Motions and Resolutions.

CLERK HANSON: None, sir.

PRESIDENT GRAYBILL: Order of Business Number 8, Unfinished Business.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number 9, Special Orders of the Day.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number 10, General Orders of the Day.
Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. President, I move the Convention resolve itself into Committee of the Whole for the purpose of handling business under General Orders.

PRESIDENT GRAYBILL: The motion is to resolve the Convention into a Committee of the Whole. All in favor, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.
(No response)

PRESIDENT GRAYBILL: So ordered.

(Committee of the Whole; Graybill, Chairman)

CLERK HANSON: "March 22, 1972. The following committee report is now on General Orders: Final Report." Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Eskildsen, will you move that we pass consideration of the partial Final Report we were working on yesterday and go to Style and Drafting's Final Report?

DELEGATE ESKILDSEN: I so move, Mr. President—Mr. Chairman, that we go to the Final Report.

CHAIRMAN GRAYBILL: All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: Very well. If you'll turn to that report, and Mr. Schiltz will explain it—but if you'll turn to the first page after the signatures. This report, I think I can say, is somewhat different than the other in that we printed the Constitution clean and explained the differences or the Style and Drafting changes on one sheet, since there were only a few and since it would have required us to print the Constitution, 60 pages, twice to do it the other way.

Mr. Schiltz, have I correctly characterized your proposal?

DELEGATE SCHILTZ: Yes, Mr. Chairman. As you—I'd like to make a few remarks first.

CHAIRMAN GRAYBILL: Yes, sir; please do.

DELEGATE SCHILTZ: As you and possibly the rest of the Convention knows, I haven't had—we got this late last night and I haven't had any time to do my usual well-referenced job of explaining all this to you, so I'll welcome any comments as I go, because I'm going to be feeling my way a little bit. I would also like to say, Mr. Chairman, that we owe a great debt to the staff of the Style and Drafting Committee, Gardner Cromwell and our two lawyers, Sandy Muckelston and Diana Dowling, and especially to Betty Nelson, who has been the secretary and who knows everything there is to know in this capitol about printing. If any other state ever has a Constitutional Convention, I would recommend that staff to it. I would also like to commend the committee. It's been an excellent committee. Never once have I had any trouble getting a quorum. They've worked while this organization has been in session, they've come upstairs to pass on things so that the Convention wouldn't be delayed in any way, and all in all it's been an excellent committee and a good experience. Now, Mr. Chairman, I would like to say also, we'll take only the first 64 pages. The material in the back of the book is the material we were working on yesterday, and it will need some revision when we get to the point of recommending a ballot to the Convention. Yesterday, we purposely—and at the committee's insistence—I explained the dilemma the committee was in. We wanted to get the sense of this body before we attempted to draft a ballot, and we think we did get that sense yesterday, so this afternoon we'll take up the back of the book, which is the adoption schedule, the transition schedule, and the proposed ballot. Mr. Chairman, I move that when this committee does arise and report, after having had—Oh, I'm sorry, go ahead.

CHAIRMAN GRAYBILL: Mr. Chairman—Mr. Schiltz, first of all, I'd like a motion from you to suspend Rule 23, the 48-hour rule on this—

DELEGATE SCHILTZ: Yes, Mr. Chairman. I move to suspend Rule 23, the 24-hour rule, this not having lain on the desks for 24 hours.

CHAIRMAN GRAYBILL: 48 hours; that's all right.

DELEGATE SCHILTZ: For 48 hours.

CHAIRMAN GRAYBILL: All those in favor of suspending Rule 23, the 48-hour rule, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's suspended. Now, Mr. Schiltz, we'll start. Will the clerk please read the title of the report and the Preamble—just the title of the Preamble. Let's take it that way.

CLERK HANSON: "Montana Constitutional Convention, 1971-72. Report of Committee on Style and Drafting, Transition and Submission, Final Report. Reported March 22, 1972, John M. Schiltz, Chairman; William Burkhardt, Vice chairman." Mr. Chairman, Preamble.

CHAIRMAN GRAYBILL: The Preamble is on page 1.
Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration Style and Drafting Committee's Final Report, the Preamble thereof, I recommend it adopt the same. Mr. Chairman, there are no changes in the Preamble.

CHAIRMAN GRAYBILL: Any discussion of the Preamble?
(No response)

CHAIRMAN GRAYBILL: All in favor of adopting the Preamble, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted. Article I.

CLERK HANSON: "Article I, Compact with the United States", page 2. Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Article Number I, Style and Drafting Final Report, it recommend the same be adopted. Mr. Chairman, there are no changes in the compact.

CHAIRMAN GRAYBILL: Any discussion of Article I?
(No response)

CHAIRMAN GRAYBILL: All in favor of Article I, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted. Article II.

CLERK HANSON: "Article II, Declaration of Rights," page 3. Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Article II, Final Report, Style and Drafting Committee, it recommend the same be adopted. Mr. Chairman, we have no changes in the Bill of Rights in Article II.

CHAIRMAN GRAYBILL: Article II contains 35 sections. Is there any discussion of Article II? It has no changes.
(No response)

CHAIRMAN GRAYBILL: All in favor of Article II, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted. Article III.

CLERK HANSON: "Article III, General Government"; containing 9 subsections, beginning on page 11. Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Schiltz, I think we're going to have to pass Article III because we have the two Section 9s on gambling in Article III. Am I correct?

DELEGATE SCHILTZ: You're correct in that, Mr. Chairman. I was going to suggest that we could possibly approve the drafting, with the understanding that as the proposed ballot will be—and it could be revised by any of several proposed ballots that might come up today—that we—with the understanding that only one of those gambling sections might be in the Constitution—and then, depending on how that vote goes, we will have approved the style.

CHAIRMAN GRAYBILL: Well, we'll certainly find out. Is there any objection to the style of Article III, with the understanding that there are two Section 9s shown there and that one or the other will probably be left in the Constitution, depending on how the ballot is drafted? We can't finally adopt Article III because we cannot say until you have passed on your ballot recommendation exactly what the form of Article IX will be. Is there any objection or any discussion of the style? There seem to be no changes.

(No response)

CHAIRMAN GRAYBILL: All in favor of Article III as to style, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

(No response)

CHAIRMAN GRAYBILL: It's okay as to style.

DELEGATE SCHILTZ: Mr. Chairman, I don't think I moved it, did I?

CHAIRMAN GRAYBILL: Well, I don't think you can move it, because I think we do have to come back and—

DELEGATE SCHILTZ: That's right.

CHAIRMAN GRAYBILL: —adopt it either with one or the other or neither or both in, after we get through with the ballot. So I've only made a note that it's adopted as to style. Article IV.

CLERK HANSON: "Article IV, Suffrage and Elections"; containing 6 subsections. Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Article IV of the final report of Style and Drafting Committee, it recommend the same be adopted. Mr. Chairman, there are no changes in Article IV.

CHAIRMAN GRAYBILL: Is there any discussion of Article IV?

(No response)

CHAIRMAN GRAYBILL: Very well; all in favor of Article IV, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: All opposed.

(No response)

CHAIRMAN GRAYBILL: It's adopted. Now, again, let's—the clerk could read Article V, but it's fouled up. Let's discuss Article V. There are two Article Vs—one begins on page 15, one begins on page 23. The one on 15 is unicameral and the one on 23 is bicameral. Now, in addition, there are some style changes in it that I think we could go through and explain and adopt. Do you want to—

DELEGATE SCHILTZ: Well, yes, Mr. Chairman. First of all, if you'll refer to the title page, Final Report, you'll see that we made some changes. We changed the—from "department" to "branch" throughout, and you'll find that in Section 5, Article XI, both unicameral and bicameral. And then—let me see—

CHAIRMAN GRAYBILL: Section 11?

DELEGATE SCHILTZ: Section 11 of Article V, both unicameral and bicameral, we changed to "branch". I don't have it marked, so I can't—

CHAIRMAN GRAYBILL: Well, it's in subsection 4 where it talks about—

DELEGATE SCHILTZ: On page 17, the first time.

CHAIRMAN GRAYBILL: (Inaudible)—on page 17, line 27, for one. I think—

DELEGATE SCHILTZ: And on page 26, line 5.

CHAIRMAN GRAYBILL: Page 26, line 5. I think the point for the body is that, as we discussed the other day, we changed the word "department"—or the Style and Drafting has changed the word "department" to the word "branch", the purpose being that they felt that department was—might be confusing with the 20 departments of the state government but the word "branch" was used, then, to indicate Legislative, Executive, Judicial branches. Let's get the sense of the body on that. All those in favor of allowing the Style and Drafting to change the word "department" to the word "branch" wherever it appears in the Legislative Article, please indicate so by saying Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: Now, I think we have adopted that style.

DELEGATE SCHILTZ: Then, Mr. Chairman, we removed one entire section—the Code of Ethics—and you'll find that on page 59 as Section 4 under General Provisions, and you'll find the note under—

CHAIRMAN GRAYBILL: Page 54?

DELEGATE SCHILTZ: Yes, but I'm—or, no, I'm sorry, it's Article—

CHAIRMAN GRAYBILL: —59. Yes, the Code of Ethics is now on—in the General Provisions, Article XIII on page 59.

DELEGATE SCHILTZ: That's another one. Oh, and then, the Salary Commission which was in the Legislative Article, has been moved to Section 5, subsection 3.

CHAIRMAN GRAYBILL: The Salary Commission has been moved—

DELEGATE SCHILTZ: And that's on page 59, too.

CHAIRMAN GRAYBILL: —to page 59, also. All right, now, those are items—on that first page—

DELEGATE SCHILTZ: Then, Mr. Chairman—

CHAIRMAN GRAYBILL: —that's item 2-A and 2-C, isn't that right? And you also have moved 2-B?

DELEGATE SCHILTZ: That's right. Section 16, unicameral, we moved it from Article V; and Section 15 of the bicameral, to Revenue and Finance as Section 14.

CHAIRMAN GRAYBILL: And that's on page 43, at the bottom, if you want to see it. Now, let's take these up one at a time as they appear on that second page of the document here. The first one, 2-A, is moving the Salary Commission from the Legislature to the General Provisions; and as I recall the discussion on that, the reason for that is that the Salary Commission does relate to more than just the Legislature. It says on page 59: "For the"—"The Legislature shall create a Salary Commission to recommend compensation for the Judiciary and elected members of the Legislative and Executive branches." So, since it covers all branches, we—the Style and Drafting has moved the Salary Commission from Legislative to General Provisions.

DELEGATE SCHILTZ: Mr. Chairman, may I make an observation? That's where I got thrown there. On the first page there, that should say "subsection 3".

CHAIRMAN GRAYBILL: I see.

DELEGATE SCHILTZ: Oh, I see—No, I see where I got confused. It was Section 5, subsection 2, of the Legislature. I see. So there's no need to make a change. That's all right.

CHAIRMAN GRAYBILL: All right, now —what we need to know, then, is whether the body approves moving the Salary Commission from the Legislature to General Provisions. Is there discussion?
(No response)

CHAIRMAN GRAYBILL: We don't need to put this finally because we'll put the articles finally, but all in favor of moving the Salary Commission from Legislature to General Provisions, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: And it's approved as to style. All right, now, the second one is the Prohibited Payments section, and it's been moved from the Legislative section to Revenue and Finance on page 43, and it pertains to: "Except for interest on the public debt, no money shall be paid out of the treasury unless upon an appropriation made by law and a warrant drawn by the proper officer in pursuit thereof." Now, it was originally in Legislature because it was a limitation—or concerned appropriations, but it's been put in Revenue and Finance as the sort of

payments that are prohibited under that title, Prohibited Payments. Is there any discussion of moving that from the Legislative Article to the Revenue and Finance Article?
(No response)

CHAIRMAN GRAYBILL: If not, all in favor of moving that Prohibited Payments Article, please say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: That's adopted as to style.

DELEGATE SCHILTZ: Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: I've now got this straight. We apparently got one number off somewhere here, so on that first page, under Salary Commission, the last word should be "Section 3" instead of "Section 4".

CHAIRMAN GRAYBILL: Okay, we'll make that amendment on our books.

DELEGATE SCHILTZ: And then, under Code of Ethics, instead of "Section 5" it should be "Section 4". And under Exemption Laws, it should be "Section 6—or Section 5" instead of "6" on the last word—"5" instead of "6". And then under Perpetuities, it should be "6" instead of "7".

CHAIRMAN GRAYBILL: Now, I hate to argue with you, but I think you've just—I've just checked the Code of Ethics, Mr. Schiltz, but it moved from the Legislature, and I haven't checked that, to Article XIII, General Provisions, and in General Provisions, it's—you're right, it's section—

DELEGATE SCHILTZ: That's Salary Commission.

CHAIRMAN GRAYBILL: Section 4. I see. Okay. So, are you saying, then, that the changes are on the Salary Commission—we changed to section—the last section number under General Provisions—to Section 3—

DELEGATE SCHILTZ: Right.

CHAIRMAN GRAYBILL: And under Code of Ethics we changed it to Section 4 under General Provisions.

DELEGATE SCHILTZ: Right.

CHAIRMAN GRAYBILL: Is that all?

DELEGATE SCHILTZ: No. Exemption Laws, the last word should be—the last numeral should be "5" instead of "6".

CHAIRMAN GRAYBILL: How about Perpetuities?

DELEGATE SCHILTZ: And Perpetuities should be "6" instead of "7".

CHAIRMAN GRAYBILL: Somebody ran the wrong series there. All right. Now, we're down to the Code of Ethics. The Code of Ethics was originally the Legislative Article, and it's been moved to the General Provisions Article, as Section 4. Is there any discussion about that?
(No response)

CHAIRMAN GRAYBILL: "The Legislature shall provide a Code of Ethics prohibiting conflict between public duty and private interest for members of the Legislature and all state and local officers and employees." And since it was broadened to include all and since it is a Code of Ethics, it was put in General Provisions instead of in the Legislative Article. Any discussion?
(No response)

CHAIRMAN GRAYBILL: All in favor of moving the Code of Ethics to the General Provisions Article, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?
(No response)

CHAIRMAN GRAYBILL: It's adopted as to style. Now, except for those changes, the two Legislative Articles—the one beginning on page 15 and the one beginning on page 23—have no other style changes in them, do they, Mr. Schiltz?

DELEGATE SCHILTZ: No other changes.

CHAIRMAN GRAYBILL: All right. Is there any discussion of them?
Mr. Mahoney.

DELEGATE MAHONEY: Mr. Chairman, I notice this heading is "nonmunicipal corporations", and I happened to be on the committee that worked down through Section 2, but I was not on the committee that worked over here, and I just want to get in the record that I had no part of a Salary Commission nor Code of Ethics at all, as far as the committee I was on. I'm just trying to get that into the record so that it will get out here and come out—and think that I had been on that and it was not on my committee.

DELEGATE SCHILTZ: Mr. Chairman, I think the major headnotes may have confused Mr. Mahoney. This is Article XIII, which is General Provisions, and then it has various subsections.

CHAIRMAN GRAYBILL: Only Section 1 is Nonmunicipal Corporations, Mr. Mahoney.

DELEGATE MAHONEY: Section 1 and 2 both came out of the Committee on Public Health and Welfare—

CHAIRMAN GRAYBILL: Right.

DELEGATE SCHILTZ: Both of those did, and I—the others were not.

CHAIRMAN GRAYBILL: Right—that's right.

DELEGATE MAHONEY: I just wanted the record to show.

CHAIRMAN GRAYBILL: Right, it shows it. Very well, is there other discussion of the Legislative Articles on page 15 and 23 as to style?
(No response)

CHAIRMAN GRAYBILL: Now, we are going to pass Article V as to final form, because this will depend perhaps—could depend perhaps—on the form of the ballot; but is there any discussion of them otherwise?
(No response)

CHAIRMAN GRAYBILL: If not, all in favor of the two Legislative Articles as to style, please say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?
(No response)

CHAIRMAN GRAYBILL: They're adopted as to style. Now, Mr. Clerk, read Section 6.

CLERK HANSON: "Article VI, The Executive"; containing 15 subsections. Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Article VI, Style and Drafting Final Report, it recommend the same be adopted. Mr. Chairman, there are no changes in the Executive.

CHAIRMAN GRAYBILL: Unfortunately, I have to argue with you. Your thing says we changed "branch"—"department" to "branch"—

DELEGATE SCHILTZ: Oh—Oh, that's right—

CHAIRMAN GRAYBILL: —on Sections 1, 4, 5 and 15.

DELEGATE SCHILTZ: That's right. I'm sorry; I was already down to 2.

CHAIRMAN GRAYBILL: You can see at the beginning of the article where it says "the Executive Branch includes the Governor", and so forth. So, throughout the Executive Article, the Style and Drafting Committee has changed the word "department" to "branch" to distinguish it from the 20 departments. Is there any discussion of that change?
(No response)

CHAIRMAN GRAYBILL: All in favor of changing "department" to "branch" in Sections 1, 4, 5 and 15 of Article VI, which is the Executive Article, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?
(No response)

CHAIRMAN GRAYBILL: All right, we've adopted that change as to style. Now, I think we can adopt the whole thing, if you want to put your motion again, Mr. Schiltz.

DELEGATE SCHILTZ: Yes, Mr. Chairman. I move when this committee does arise and report, after having had under consideration section—or, Article VI, Style and Drafting Final Report, it recommend the same be adopted.

CHAIRMAN GRAYBILL: Is there any discussion of Article VI?
(No response)

CHAIRMAN GRAYBILL: All in favor of Article VI, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?
(No response)

CHAIRMAN GRAYBILL: It's adopted. Article VII.

CLERK HANSON: "Article VII, The Judiciary"; containing 11 subsections, beginning on page 36. Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Article VII, Style and Drafting Final Report, it recommend the same be adopted. Mr. Chairman, you'll note the change from this article. Section 12 was transferred to Section 13, General Provisions, as Section 5.

CHAIRMAN GRAYBILL: All right, we moved out of Judiciary and into that same General Provisions Article the small section on exemption laws—"The Legislature shall enact liberal homestead and exemption laws." We moved that out of Judiciary—Style and Drafting did—and into General Provisions.

DELEGATE SCHILTZ: And the same is true, Mr. Chairman, as to subsection 6—or Section 6 of General Provisions.

CHAIRMAN GRAYBILL: Right. We moved Perpetuities out of Judiciary and into General Provisions, and it says: "No perpetuities shall be allowed to exist except for charitable purposes." Is there any discussion of moving the exemption laws from Judiciary to General Provisions?
(No response)

CHAIRMAN GRAYBILL: All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: All right. Opposed, No.
(No response)

CHAIRMAN GRAYBILL: It's adopted as to style. Is there any objection—or is there any discussion of moving Perpetuities from Judiciary to General Provisions?
(No response)

CHAIRMAN GRAYBILL: All in favor of that, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?
(No response)

CHAIRMAN GRAYBILL: It's adopted as to style. Now, we've adopted as to style (A), (B), (C), (D) and (E) of Number 2. Now, Mr. Schiltz, I think we can adopt—or at least we can decide whether to adopt Judiciary itself, beginning on page 36.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Section 7—or Article VII, Style and Drafting report number—or Final Report, it recommend the same be adopted.

CHAIRMAN GRAYBILL: Except for the two deletions we just made, there are no other changes in section—

DELEGATE SCHILTZ: No other changes.

CHAIRMAN GRAYBILL: Is there any discussion of Article VI?
(No response)

CHAIRMAN GRAYBILL: Very well; all in favor of Article VI of Style and Drafting, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATE SCHILTZ: Mr. Chairman, that was Article VII.

CHAIRMAN GRAYBILL: I'm sorry—Article VII, on the Judiciary. All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?
(No response)

CHAIRMAN GRAYBILL: It's adopted. Mr. Clerk.

CLERK HANSON: "Article VIII, Revenue and Finance"; containing 14 subsections, beginning on page 41. Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Article VIII, Style and Drafting Final Report, it recommend the same be adopted. Mr. Chairman, there are no changes.

CHAIRMAN GRAYBILL: The only change is that we added a section, which you all approved a few—

DELEGATE SCHILTZ: Which has already been approved, yeah.

CHAIRMAN GRAYBILL: Right. Is there any discussion?

DELEGATE SCHILTZ: Wait a minute. We've got one here. On page 43, we took out what is subsection 2 of 13—the first sentence, which reads: "The public school fund and the permanent funds of the Montana University System"—because it has already been—No, no, that isn't the one. Wait a minute. We're working on this one, Mr. Chairman. Well, that's our third comment, Mr. Chairman. In order to avoid repeating a sentence identical to that appearing as Section 3 of Article X, Education, the first sentence of subsection 2, Section 13, under Revenue and Finance, was deleted.

CHAIRMAN GRAYBILL: All right.

DELEGATE SCHILTZ: Now, if you look on page—where is that?

CHAIRMAN GRAYBILL: You've got to go to Article X to find out what it was.

DELEGATE SCHILTZ: Yes—page 48—it says—Section 3 says "The public school fund shall remain forever inviolate, guaranteed by the state against loss or diversion." Oh, I see. On page 43, we left that one in, I guess—now, let me see, that's Article—oh, we didn't change that at all, did we? Yes, we took that sentence out so it wouldn't appear in both sections. I'm sorry, Mr. Chairman and members of the committee, but I didn't get all that much time to work on this this morning.

CHAIRMAN GRAYBILL: Which one did you take out and which one did you put in?

DELEGATE SCHILTZ: On page 48, Revenue and Finance, we took out section—we took a sentence out from somewhere else and put it in here, I guess, is the—

CHAIRMAN GRAYBILL: Mr. Rygg.

DELEGATE RYGG: First, may my presence be noted in the journal?

CHAIRMAN GRAYBILL: Your presence may be noted in the journal, Mr. Rygg.

DELEGATE RYGG: Well, I came in late. Now, it looks to me like the subsection 2 of Section 13 has been deleted. Is that correct? Is that now in the Public—in Education and Public Lands?

DELEGATE SCHILTZ: Mr. Chairman, I think I have it straight now. On page 43 there had been that same sentence that you will now find over on page 48 as Section 3. It occurred in two places in the Constitution, so we left it in on page 48 and deleted it—and it appeared as subsection 2 but is no longer there.

CHAIRMAN GRAYBILL: All right. The Chair thinks he understands. On page 48, you'll find a Section 3 on line 5, and it says—it's in Education—it says: "The public school fund shall forever remain inviolate, guaranteed by the state against loss or diversion." Now, that used to be the first sentence of 13, sub. 2—and then it used to say: "The public school fund and permanent funds of the Montana University System shall be safely invested." Is that right?

DELEGATE SCHILTZ: That's correct.

CHAIRMAN GRAYBILL: All right, so the sentence which is still in as the public school fund inviolate on page 48 used to be the beginning of Section 13, sub. 2; it's now been deleted.

DELEGATE SCHILTZ: Because they appeared in both places, then, sir.

CHAIRMAN GRAYBILL: That is comment number 3 on the first page that we're working on there. Is there any discussion of it by anyone?
(No response)

CHAIRMAN GRAYBILL: It's still in. It's just in a different place. All right; all in favor of allowing the Style and Drafting change which moved from the Revenue and Finance to the Education Article that sentence—or left it only in the Education Article—all in favor of that change—it's number 3 there—say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?
(No response)

CHAIRMAN GRAYBILL: All right, it's adopted as to style. Now, with that change, would you move—

DELEGATE SCHILTZ: Mr. Chairman, I

move when this committee does arise and report, after having had under consideration Article VIII, final Style and Drafting report, it recommend the same be adopted.

CHAIRMAN GRAYBILL: And Article VIII is the Revenue and Finance Article, right?

DELEGATE SCHILTZ: That's right.

CHAIRMAN GRAYBILL: Beginning on page 41. Is there any discussion?
(No response)

CHAIRMAN GRAYBILL: All in favor of Article VIII, Revenue and Finance, as Style and Drafting has amended it, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: No.

CHAIRMAN GRAYBILL: All right, it's adopted. Now, would the clerk read Article IX.

CLERK HANSON: "Article IX, Environment and Natural Resources"; containing four subsections, page 45 and 46. Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Article IX, Environment and Natural Resources Article, Style and Drafting Final Report, it recommend the same be adopted. Mr. Chairman, there are no changes.

CHAIRMAN GRAYBILL: Any discussion?
(No response)

CHAIRMAN GRAYBILL: All in favor of Article IX, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?
(No response)

CHAIRMAN GRAYBILL: It's adopted. Clerk, read Article X.

CLERK HANSON: "Article X, Education and Public Lands", containing 11 subsections, pages 47 through 52. Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Article X, Education and Public Lands, Style and Drafting Final Report, it recommend the same be adopted. Mr. Chairman, there are no changes.

CHAIRMAN GRAYBILL: Is there any discussion of Article X?
(No response)

CHAIRMAN GRAYBILL: All in favor of Article X, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: No.

CHAIRMAN GRAYBILL: It's adopted. Article XI.

CLERK HANSON: "Article XI, Local Government"; containing nine subsections, pages 53 through 56. Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Article XI, Local Government, Style and Drafting Final Report, that it recommend the same be adopted. Mr. Chairman, there are no changes.

CHAIRMAN GRAYBILL: Any discussion?
(No response)

CHAIRMAN GRAYBILL: All in favor of Local Government Article XI, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?
(No response)

CHAIRMAN GRAYBILL: It's adopted. Article XII.

CLERK HANSON: "Article XII, Departments and Institutions"; containing 3 sections, page 57 and 58. Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Article XII, Departments and Institutions, Style and Drafting Final Report, it recommend the same be adopted. Mr. Chairman, this is a gathering of three or four items that didn't fall—three items—that didn't fall in any other particular place, and we called it—we took—we called it "Departments and Institutions", being three sections—the Department of Agriculture, Department of Labor, and then a general provision having to do with institutions and assistance.

CHAIRMAN GRAYBILL: Is there any discussion of Article XII?
(No response)

CHAIRMAN GRAYBILL: All in favor of Article XII, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?
(No response)

CHAIRMAN GRAYBILL: It's adopted. Article XIII. Now, Mr. Schiltz, on Article XIII, on the first page, you have a change from "branch" to "department", but it's in Article XIII, Section 3 instead of Section 4.

DELEGATE SCHILTZ: That's right. It should be 3.

CHAIRMAN GRAYBILL: Is there any discussion of the change—

DELEGATE SCHILTZ: Which would be line 25.

CHAIRMAN GRAYBILL: —from the word "department" to the word "branch"?
(No response)

CHAIRMAN GRAYBILL: All in favor of changing the—"department" to "branch", say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?
(No response)

CHAIRMAN GRAYBILL: It's adopted. Now, other than that, we have all the additions that we've discussed already. We've put Perpetuities in there, Exemption Laws in there, Code of Ethics in there, and Salary Commission in there. But, other than that, there are no style changes.
Mr. Schiltz.

DELEGATE SCHILTZ: I don't think he's read the title.

CLERK HANSON: "Article XIII, General Provisions"; containing 6 sections, page 59 and 60. Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration Article XIII, Style and Drafting's Final Report, General Provisions, that it recommend the same be adopted. As you have noted, the changes—and there are no other changes from the material that we gathered this from—it hasn't been changed otherwise.

CHAIRMAN GRAYBILL: Any discussion of Article XIII?
(No response)

CHAIRMAN GRAYBILL: All in favor of Article XIII, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: No.

CHAIRMAN GRAYBILL: It's adopted.

CLERK HANSON: Article XIV—

CHAIRMAN GRAYBILL: Article XIV.

CLERK HANSON: "—containing 11 sections, Constitutional Revision", pages 61 through 64. Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Article XIV, Constitutional Revision, Final Report, Style and Drafting Committee, it recommend the same be adopted. Mr. Chairman, there are no changes.

CHAIRMAN GRAYBILL: Any discussion of Article XIV?
(No response)

CHAIRMAN GRAYBILL: All in favor of Article XIV, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: No.

CHAIRMAN GRAYBILL: It's adopted. Very well. We've adopted, as to style, Articles I to XIV, except for Articles III and V, which we have passed because of the ballot problem.

Mr. Eskildsen, I think the committee should rise and finally report on all articles except III and V.

DELEGATE ESKILDSEN: Mr. Chairman, I move that the committee rise and finally report on all articles except Section III and Section V.

CHAIRMAN GRAYBILL: You have heard the motion. Is there any objection?
(No response)

CHAIRMAN GRAYBILL: All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?
(No response)

CHAIRMAN GRAYBILL: We'll rise and finally report on the articles except III and V, including the Preamble.

(Proceedings moved to Convention, with President Graybill presiding)

PRESIDENT GRAYBILL: Will the clerk please read the committee report.

CLERK HANSON: "March 22, 1972. Mr. President. We, your Committee of the Whole, having had under consideration business on General Orders, recommend as follows: that the committee rise and finally report on Preamble and all articles except Articles III and V. Signed: Graybill, Chairman."

DELEGATE ESKILDSEN: Mr. President.

PRESIDENT GRAYBILL: Just a moment. Is there anyone that wants the report read in full?
(No response)

PRESIDENT GRAYBILL: Very well. Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. President, I move for the adoption of the Committee of the Whole report and refer the report Committee on Style, Drafting, Transition and Submission, Final Report, to Order of Business Number 6.

PRESIDENT GRAYBILL: The motion is to adopt the Committee of the Whole report and refer it to Order of Business Number 6. All in favor, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.
(No response)

PRESIDENT GRAYBILL: So ordered. Without objection, we'll revert to Order of Business Number 6. Is there objection?
(No response)

PRESIDENT GRAYBILL: Very well, we're on Order of Business Number 6. Now, ladies and gentlemen, on Order of Business Number 6, we will today finally adopt, article by article, including the Preamble, the sections we have just approved, except for III and V. And, of course, when we have adopted III and V and the ballot and other appurtenances, we will then adopt the Constitution as a whole. We're not going to adopt it as a whole now, but we're going to adopt—or at least we're going to put the question on I through XIV, except for III and V, including the Preamble. This is on final adoption. It's roll call vote. No debate. Will the clerk please read the title of the Preamble and the article.

CLERK HANSON: "Montana Constitutional Convention, 1971. Report of Committee on Style, Drafting, Transition and Submission, Final Report. Schiltz, Chairman."

PRESIDENT GRAYBILL: Order of Business Number 6.

CLERK HANSON: "Order of Business Number 6. Preamble". Mr. President.

PRESIDENT GRAYBILL: For final consideration. So many as shall be in favor of the Preamble, vote Aye on the voting machines; so many as shall be opposed, vote No. Has every delegate voted?
(No response)

PRESIDENT GRAYBILL: Preamble. Vote Aye if you're in favor of the Preamble; No if you're opposed to the Preamble. Has every delegate voted?
(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?
(No response)

PRESIDENT GRAYBILL: Please cast the ballot.

Aasheim	Aye
Anderson, J.H.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Excused
Cate	Absent
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Absent
Davis	Aye
Delaney	Aye
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Absent
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Absent
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Absent
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. President, 93 delegates voting Aye, no delegates voting No.

PRESIDENT GRAYBILL: Very well, 93 having voted Aye, the Preamble is adopted. Article I.

CLERK HANSON: "Article I, Compact with the United States". Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Article I, vote Aye on the voting machines; opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, cast the ballot.

Aasheim	Aye
Anderson J.H.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Excused
Cate	Absent
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Absent
Davis	Aye
Delaney	Aye
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Nay
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye

Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. President, 96 delegates voting Aye, 1 delegate voting No.

PRESIDENT GRAYBILL: Very well, Article I is adopted. Article II.

CLERK HANSON: "Article II, Declaration of Rights"; containing 35 sections. Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of the Declaration of Rights, vote Aye on the voting machines; so many as opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Cast the ballot.

Aasheim	Aye
Anderson, J.H.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Excused
Cate	Absent
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Absent
Davis	Aye
Delaney	Aye
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Nay
Joyce	Aye
Kamhoot	Nay
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Absent
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye

Sparks	Aye
Speer	Aye
Studer	Absent
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Nay
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. President, 92 delegates voting Aye, 3 voting No.

PRESIDENT GRAYBILL: Very well, Article II is adopted. Article IV.

(Inaudible comment from floor)

PRESIDENT GRAYBILL: No, we skipped III because III has to be withheld for the ballot.

CLERK HANSON: "Article IV, Suffrage and Elections"; containing 6 sections, Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Article IV, Suffrage and Elections, vote Aye on the voting machines; so many as shall be opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Cast the ballot.

Aasheim	Aye
Anderson, J.H.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Excused
Cate	Absent
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Absent
Davis	Aye
Delaney	Aye
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye

Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. President, 97 delegates voting Aye, no delegates voting No.

PRESIDENT GRAYBILL: 97 having voted Aye, Section IV is adopted. I presume you all read in the paper that we're just one step ahead of the Supreme Court on that section. Section VI—we skip Section V. Section VI.

CLERK HANSON: "Section VI, The Executive"; containing 15 sections, page 29. Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Section VI, on the Executive, vote Aye on the voting machines; so many as shall be opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Cast the ballot.

Aasheim	Aye
Anderson, J.H.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Nay
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Absent
Burkhardt	Aye
Cain	Aye
Campbell	Excused
Cate	Absent
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Absent
Davis	Aye
Delaney	Aye
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Absent
Eskildsen	Aye
Etchart	Aye
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Nay
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Nay
Holland	Aye
Jacobsen	Aye

James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Nay
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Nay
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Nay
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Nay
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Nay
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. President, 87 delegates voting Aye, 8 voting No.

PRESIDENT GRAYBILL: Very well, Section VI is adopted. Section VII.

CLERK HANSON: "Section 7"—or "Article VII, The Judiciary"; containing 11 sections. Mr. President.

PRESIDENT GRAYBILL: Right, I guess it's an Article VI that we adopted, not a section. Okay, so many as shall be in favor of Article VII, vote Aye on the voting machines; opposed, vote No. Every delegate voted?

(No response)

PRESIDENT GRAYBILL: Any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Cast the ballot.

Aasheim	Aye
Anderson, J.H.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Nay
Aronow	Nay
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Nay
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Excused
Cate	Absent
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Absent
Davis	Aye
Delaney	Aye
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Nay
Etchart	Nay
Felt	Nay
Foster	Aye

Furlong	Aye
Garlington	Aye
Gysler	Aye
Habedank	Nay
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Nay
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Nay
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Nay
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Nay
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Nay
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Nay
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. President, 84 delegates voting Aye, 13 voting No.

PRESIDENT GRAYBILL: Very well, Article VII is adopted. Article VIII.

CLERK HANSON: "Article VIII, Revenue and Finance"; containing 14 sections. Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Article VIII, vote Aye on the voting machines; so many as shall be opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Cast the ballot.

Aasheim	Nay
Anderson, J.H.	Nay
Anderson, O.	Nay
Arbanas	Aye
Arness	Aye
Aronow	Nay
Artz	Aye
Ask	Nay
Babcock	Nay
Barnard	Nay
Bates	Nay
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Nay
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Excused
Cate	Absent
Champoux	Aye
Choate	Nay
Conover	Aye

Cross	Aye
Dahood	Absent
Davis	Nay
Delaney	Nay
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Nay
Eskildsen	Nay
Etchart	Nay
Felt	Nay
Foster	Aye
Furlong	Aye
Garlington	Aye
Gysler	Nay
Habedank	Aye
Hanson, R.S.	Nay
Hanson, R.	Nay
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Nay
Joyce	Aye
Kamhoot	Nay
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Nay
Mansfield	Nay
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Nay
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Nay
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Nay
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Nay
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Nay
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. President, 69 delegates voting Aye, 28 voting No.

PRESIDENT GRAYBILL: Very well, Article VIII is adopted. Article IX.

CLERK HANSON: "Article IX, Environment and Natural Resources"; containing 4 sections, Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Article IX, vote Aye; so many as shall be opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.H.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye

Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Excused
Cate	Absent
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Absent
Davis	Aye
Delaney	Aye
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Absent
Toole	Absent
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. President, 95 delegates voting Aye, no delegates voting No.

PRESIDENT GRAYBILL: Very well, Article IX is adopted. Article X.

CLERK HANSON: "Article X, Education and Public Lands"; containing 11 sections. Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Article X, vote Aye; so many as shall be opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Very well, cast the ballot.

Aasheim	Aye
Anderson, J.H.	Nay
Anderson, O.	Aye
Arbanas	Aye
Arness	Nay
Aronow	Nay
Artz	Nay
Ask	Nay
Babcock	Nay
Barnard	Nay
Bates	Nay
Belcher	Nay
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Nay
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Excused
Cate	Absent
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Absent
Davis	Aye
Delaney	Nay
Driscoll	Nay
Drum	Aye
Eck	Aye
Erdmann	Nay
Eskildsen	Nay
Etchart	Nay
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Aye
Gysler	Nay
Habedank	Aye
Hanson, R.S.	Nay
Hanson, R.	Nay
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Nay
Joyce	Aye
Kamhoot	Nay
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Nay
Mansfield	Nay
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Nay
Melvin	Aye
Monroe	Nay
Murray	Aye
Noble	Aye
Nutting	Nay
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Nay
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Nay
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Nay
Ward	Nay
Warden	Nay
Wilson	Nay
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. President, 66 delegates voting Aye, 31 voting No.

PRESIDENT GRAYBILL: Very well, Article X is adopted. Article XI.

CLERK HANSON: "Article XI, Local Government"; containing 9 sections. Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Article XI, vote Aye; so many as shall be opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Cast the ballot.

Aasheim	Aye
Anderson, J.H.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Excused
Cate	Absent
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Absent
Davis	Aye
Delaney	Aye
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Nay
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye

Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. President, 96 delegates voting Aye, 1 voting No.

PRESIDENT GRAYBILL: Very well, Article XI is adopted. Article XII.

CLERK HANSON: "Article XII, Departments and Institutions"; containing 3 sections. Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Article XII, vote Aye; and opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, cast the ballot.

Aasheim	Absent
Anderson, J.H.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Nay
Brazier	Aye
Brown	Nay
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Excused
Cate	Absent
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Absent
Davis	Aye
Delaney	Aye
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Nay
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Nay
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Absent
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye

Speer	Aye
Studer	Nay
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. President, 90 delegates voting Aye, 5 voting No.

PRESIDENT GRAYBILL: Very well, Article XII is adopted. Article XIII.

CLERK HANSON: "Article XIII, General Provisions"; containing 6 sections. Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Article XIII, vote Aye on the voting machines; so many as shall be opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, cast the ballot.

Aasheim	Aye
Anderson, J.H.	Nay
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Nay
Babcock	Nay
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Nay
Brazier	Aye
Brown	Nay
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Excused
Cate	Absent
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Absent
Davis	Aye
Delaney	Aye
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Nay
Etchart	Aye
Felt	Nay
Foster	Aye
Furlong	Aye
Garlington	Aye
Gysler	Nay
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Nay
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Nay
Murray	Aye
Noble	Aye
Nutting	Nay
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye

Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Nay
Warden	Aye
Wilson	Nay
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. President, 84 delegates voting Aye, 13 voting No.

PRESIDENT GRAYBILL: Very well, Article XIII is adopted. Article XIV.

CLERK HANSON: "Article XIV, Constitutional Revision"; containing 11 sections. Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of Article XIV, vote Aye on the voting machines; so many as opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Cast the ballot.

Aasheim	Aye
Anderson, J.H.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Nay
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Excused
Cate	Absent
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Absent
Davis	Aye
Delaney	Aye
Driscoll	Aye
Drum	Aye
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Aye
Gysler	Absent
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Aye
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Nay
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye

McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Nay
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. President, 93 delegates voting Aye, 3 voting No.

PRESIDENT GRAYBILL: 93 delegates having voted Aye and 3 voting No, Section XIV is adopted. Ladies and gentlemen, you've adopted the Preamble and Sections I through XIV, except III and V, which have been retained. We will retain these sections and the Preamble—

CLERK HANSON: Articles.

PRESIDENT GRAYBILL: Article—article—these articles and the Preamble in Order of Business Number 6 pending the arrival, hopefully, of the ballot and the other articles. Very well, without objections, I'd like to be on Order of Business Number 11 for a minute. Order of Business Number 11 is Announcements. We are having a dinner tomorrow night at the Montana Club, the usual $5 rate, including two drink tickets. The drinks will be on the third floor this time and dinner will be set up on the fifth—on the sixth floor, as usual. It'll be a—I think Mrs. Payne has styled it an "awards dinner", and your wives and out-of-town guests are invited. We do need some reservations. We don't have everyone's reservations, I hope, that's coming, and we do need your reservations. This will be Thursday night, before the final signing on Friday morning. The signing on Friday morning is at 10 o'clock. If you have friends from out of town, you'd better let them know, because the newspapers did carry a 1 o'clock or 1:30 notice, which was wrong. Ten o'clock in the morning, barring unforeseen difficulties. Are there other announcements?

Mr. Habedank.

DELEGATE HABEDANK: I don't wish to make an announcement, I wish to ask a question. Someone called me the other day and said that they read in the papers where passes would be necessary to be here for the signing of the Convention. Is this correct?

PRESIDENT GRAYBILL: It's my understanding, from Mr. Garlington, that that is not correct. There'll be some seats saved in the front for our dignitaries. Other than that, we're going to set up as many extra chairs as we can in the aisles. We thought we would avoid the problem of trying to assign seats and let those first-come, first-served. I might just remind you, it amuses me, when I think back to the first discussion and debate that this group had, which was how many seats to give ourselves in the balcony—that took us an hour and a half and didn't make any difference. (Laughter) So, based on that, we decided not to bother assigning seats, so just tell them to come and we'll hope for the best.

Mr. Schiltz.

DELEGATE SCHILTZ: Style and Drafting Committee will meet immediately upon recess.

PRESIDENT GRAYBILL: Now, we're planning to recess until 11 o'clock. And at 11 o'clock, we'll come back into session and Style and Drafting will be ready on the ballot. I would like to point out that we will recess reasonably promptly at 12 o'clock, regardless of the status of the debate, since there is a luncheon today for some of the wives and so forth, and the President gets to talk at that luncheon, so he's got to go.

Mr. Martin.

DELEGATE MARTIN: Mr. President, yesterday we ran out of people in the audience because of all the committee meetings elsewhere, and there are three committee chairmen who didn't have a chance to report—Delegate—Chairman Heliker and Chairman Etchart and the Judiciary. If we could have some time today in which they might have an opportunity to participate, I think it would be helpful.

PRESIDENT GRAYBILL: I think it would be, too. I think that—we've got—Style and Drafting needs to go now—let's plan to do that if we can adjourn before 5 o'clock tonight, but we will plan to let those three have 5 minutes at the end of the day.

DELEGATE MARTIN: One other—or two other things, if I may. I would appreciate if the chairmen of the substantive committees would get their letters to me sometime today, and I appreciate the support and recognize the difficulties that they're having, but if they could get—if I could have those, I would appreciate it very much. And, then, I might report that in response to my questionnaire, I have at the moment 52 responses. I would like to have a little—a few more, and I'm sure that the other delegates will bring them to my desk. I'll appreciate it.

PRESIDENT GRAYBILL: They have 25 minutes to work on them, haven't they?

DELEGATE MARTIN: Thank you.

PRESIDENT GRAYBILL: Mr. Eskildsen, let's have a 25-minute recess.

DELEGATE ESKILDSEN: Mr. President, let's recess—I move we recess until 11:00 a.m. this day.

PRESIDENT GRAYBILL: The motion is to recess till 11:00. All in favor, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.
(No response)

PRESIDENT GRAYBILL: We're in recess.

(Convention recessed at 10:35 a.m.—reconvened at 11:00 a.m.)

PRESIDENT GRAYBILL: The Convention will be in session. The Convention will be in session. Mrs. Reichert, will you please go out in the hall and tell the delegates we're in session? The Convention will be in order. Ladies and gentlemen of the Convention, Style and Drafting has completed its work but not its printing, and so it's useless to try to do anything before lunch on their proposal. We're going to recess in a moment or two until 2:00 p.m., at which time they will have their printing ready and we will have our debate on the ballot. Before we recess until 2:00 p.m., I'd like to mention that we would like those of you who would, to remain for about 20 minutes, and we will listen to the three committee chairmen we didn't hear yesterday, and I would like to discuss with you, very briefly, candidates for—people—persons that are delegates who might be candidates for office and what—how that might affect us. Other than that, we can stand in recess until 2:00 p.m., if Mr. Eskildsen will make a motion. And if those of you who will be good enough to remain and let those three delegates take over. Mr. Martin, will you come forward and take care of that meeting.
Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. President, I move the Convention stand in recess until 2:00 p.m. this day.

PRESIDENT GRAYBILL: The motion is to recess until 2:00 p.m. All in favor, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.
(No response)

PRESIDENT GRAYBILL: So ordered.

(Convention recessed at 11:14 a.m.—reconvened at 2:10 p.m.)

PRESIDENT GRAYBILL: The Convention will be in order. Ladies and gentlemen, we ended up with Order of Business Number 11. Without objection, we will start again on Order of Business Number 1. Will the clerk please read any committee reports.

CLERK HANSON: "Mr. President. We, your Committee on Style, Drafting, Transition and Submission herewith submit a revised adoption schedule, to substitute for the one distributed yesterday, for consideration by the Convention. Signed: Schiltz, Chairman."

PRESIDENT GRAYBILL: And it includes—in addition to adoption schedule, it

includes a new ballot. And I think we should probably make clear for the record that it's a revised adoption schedule, it's a revised ballot; but that the transition schedule that we got yesterday still applies and the adoption schedule and the ballot substitute for what we did yesterday—what we had handed us yesterday. In other words, yesterday we had an adoption schedule, transition schedule, and three ballots supplied us. The three ballots are now being substituted for by the one new ballot. The adoption schedule is being substituted for by the old—or by the new adoption schedule. Now, the Chair will refer these substituted matters to Order of Business Number 10. Now, without objection, we will be on Order of Business Number 10. Is there objection?
(No response)

PRESIDENT GRAYBILL: Mr. Eskildsen.

DELEGATE ESKILDSEN: I move the Convention resolve itself into Committee of the Whole for the purpose of handling business under General Orders.

PRESIDENT GRAYBILL: Very well, the motion is to resolve this Convention into Committee of the Whole for taking up these matters on Order of Business Number 10. All in favor, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.
(No response)

PRESIDENT GRAYBILL: So ordered.

(Committee of the Whole; Graybill, Chairman)

CHAIRMAN GRAYBILL: Now, Mr. Schiltz will discuss this. Do you want to explain the order that you're going in to them, or would you like me to explain it?

DELEGATE SCHILTZ: I think it'd be fine if you explained it, Mr. Chairman; but first, I would like to move that Rule 23 be dispensed with for the consideration of the revised adoption schedule and attached ballot, this material not having lain on the desks for 48 hours.

CHAIRMAN GRAYBILL: Well, then, as a matter of fact, it should also include the transition schedule.

DELEGATE SCHILTZ: That's right.

CHAIRMAN GRAYBILL: We did not waive Rule 24 yesterday.

DELEGATE SCHILTZ: That's right.

CHAIRMAN GRAYBILL: —23? Very well, Rule 23. Mr. Schiltz has made a motion to waive Rule 23 on the revised adoption schedule, the new revised or new ballot form, and on the transition schedule that we had laid on our desks yesterday. All in favor of waiving Rule 23, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: So ordered. Now, I might explain that Mr. Schiltz has asked, and the Chair intends to follow this procedure. We'll discuss the ballot first. If we can arrive at a ballot, then we will go back and—we are on Order of Business 10—we will then take Article III and Article V up, because until we have cleaned up Article III and Article V, the adoption and transition schedules do not make sense. And then, having cleaned up Article III and Article V, based on the ballot work, we would then come back and take up the adoption schedule and the transition schedule. So that's why we're skipping around here—certain ones depend on certain other ones. Will the clerk please read the title of the new material and the word "ballot", I guess, and we'll start—the word "official ballot"—and we'll start there. I just want you to read the title of the report, which is Style and Drafting report, and then the ballot.

CLERK HANSON: "Revised—Style and Drafting report and revised adoption schedule and official ballot. The official ballot." Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration the proposed official ballot, that it recommend the same be adopted.
Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: The—As you all

know, we spent four and a half hours yesterday working on this ballot. The main purpose was to get some sense of the Committee of the Whole attitude on unicameral-bicameral and some of the other issues that are placed thereon. As a result of that, which we in our committee, at least, felt was very helpful, we have unanimity or near unanimity—there may have been one dissenting vote at one point or another—on this proposed ballot, and we submit it for your consideration.

CHAIRMAN GRAYBILL: Now, members of the committee, the Chair would like to point out that when we concluded yesterday afternoon, we were on Mr. Davis' motion, based on what was then called "official"—or called "ballot number 2", with an amendment proposed by Mr. Blaylock and an amendment proposed by Mr. Holland. Now, since we rose and reported and asked leave to sit again, the pending matters—namely, Mr. Holland's and Mr. Blaylock's motions, on which no action had been taken—are considered by the Chair to have been wiped out. That leaves us with Mr. Davis' motion, which was to have the bicameral form of the Legislative Article placed in the Constitution and have a ballot that would say that you could vote for the Constitution with bicameral in it, et cetera—the first half of the so-called "ballot". Now, the Chair wishes to point out that the official ballot which Mr. Schiltz has just moved is, for all practical purposes, Mr. Davis' motion down through number 1 and number 2. In other words, it is a ballot including the bicameral house, two houses, in the first vote and including unicameral on the outside in the second vote. Now, Mr. Davis, you spoke with me and we can either consider your motion incorporated into the committee's report or you could withdraw. As far as I'm concerned, I'd like to consider it incorporated into the committee's position. Is that agreeable with you?

DELEGATE DAVIS: That's agreeable, Mr. President.

CHAIRMAN GRAYBILL: All right. Does everyone understand, the work we've done yesterday has been incorporated into 1 and 2 on the ballot here, and the work—the other motions that were made yesterday are now wiped out.
Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, I should have explained, and you reminded me of it as you went through that, that when you get to the gambling proposition, which is number 3, that it was the committee's vote that the first Section 9, on page 13—and this is contemplated by the transition and adoption schedule—that the first Section 9, on page 13, would be the one that goes into the Constitution, so that if the vote went the other way, in the transition, that one would come out and the second Section 9 would go in.

CHAIRMAN GRAYBILL: Very well.
Mr. Davis.

DELEGATE DAVIS: Mr. President, could we go ahead and finish with 1 and 2 before we get into gambling? Isn't that your thought, or are we going to open up 3 and 4 at this time?

CHAIRMAN GRAYBILL: Well, the whole ballot is proposed by Mr. Schiltz and there are explanations for 3 and 4, if he cares to make them now—how they appear there. It seems to me that their whole proposal is before us and we—I have some amendments here which we can take or—let's see—

DELEGATE DAVIS: It was my thought yesterday and my motion that we would settle on 1 and 2, the form and style and so forth, before we get—and then take 3 and settle on it and 4, maybe; and we could knock them out better than intermingling them. It's just a suggestion.

CHAIRMAN GRAYBILL: The Chair is just looking here. I have three proposed amendments to the Transition Article. I have no proposed amendments to the official ballot. We can—the Chair will do whatever anybody moves here.
Mr. Ask.

DELEGATE ASK: Mr. Chairman, do you have my proposed ballot?

CHAIRMAN GRAYBILL: I have your proposed ballot. Is it to be placed as a motion?

DELEGATE ASK: Could I place that as a motion before the body at this time?

CHAIRMAN GRAYBILL: You may.

DELEGATE ASK: Mr. Chairman, could I explain it?

CHAIRMAN GRAYBILL: All right. Just a moment. Mr. Ask, has your ballot form been placed before the body on all the desks?

DELEGATE ASK: Mr. Chairman, we had a few made. They're on every aisle. I don't think everybody has a copy of it. There's some extra ones here; but if I could, for a few minutes, I'll explain it, and I think there will be no problem.

CHAIRMAN GRAYBILL: Very well, the Chair will allow as a—just a minute, let me read it here a minute—is it an amendment or a substitute motion, Mr. Ask?

DELEGATE ASK: It would be a substitute motion to the ballot.

CHAIRMAN GRAYBILL: All right, the Chair will allow, as a substitute motion to the motion of the Style and Drafting Committee, Mr. Ask's proposed ballot.

Mr. Ask.

DELEGATE ASK: Mr. Chairman and delegates. I feel that—I'm holding my ballot here now, and if you'll notice, it's put in two different blocks. The top blocks is block 1, "For the proposed Constitution". Then you have For and Against all the alternates—all three alternates. Down below, it's block 1—block 2, "Against the Constitution", but they still have the right to vote For and Against all the alternates. At the top I have—of course, this could be explained differently, but—"If you are for the proposed Constitution, vote in block one below. If you are against the proposed Constitution, vote in block 2 below. You may vote on the three alternate propositions in whichever block you vote. Do not vote in block 1 and 2. If you vote in both blocks, your ballot will be void. If the main proposition fails, all alternatives fail." Now, I feel that this ballot is a true balloting of this Convention of what we have done up to this time—we have adopted a proposed Constitution with three alternates and we're submitting it to the people. You can vote for it or against it, but even though you vote against it or for it, you still have the right to vote on all three alternates, either for or against. And this is what we have done, and I submit that the majority report has put the bicameral in there—of course, I'm bicameral—but to me this isn't necessarily fair and it isn't what we have done up to this time. You put these alternates in there, and then if you're against them, you vote for or against them down below and to me, this is not a true and accurate ballot. Now, the only thing about this ballot is that if perchance you wouldn't get a majority voting for one of the alternates, such as the unicameral or bicameral—but the reason I put them in two blocks is that, no matter where you vote, you're voing to vote for the unicameral or the bicameral; so it's very, very, very unlikely that someone would vote in one of those blocks and not vote for either—for the unicameral or for the bicameral, so it's inconceivable to me that you wouldn't get a majority. And to me, this is the only way you can submit it to the people that's fair and accurate of what we have done up to this time, and that's the only thing that—in other words, if you're for the Constitution, you stay in block 1, you don't even fool around with block 2 but you get to vote on all the alternates. If you're against the Constitution, you can still—you can vote against the Constitution, but you still have the right to vote on—For or Against all the alternates. And to me, this is the democratic way to do it. And, to me, the Style and Drafting Committee, I don't think, is really too clear on that point. Bicameral is in there, but then you have, down below, For a unicameral or Against a bicameral; and to me, I don't know—I can't really predict what's going to happen on that. We—the bicameralists may get clobbered, and maybe they won't—I don't know. But the ballot that I have proposed, you're clearly going to know where they stand; and I'm submitting it to the body here so they can discuss it, and if they don't like it, of course, you can vote against it. Thank you.

CHAIRMAN GRAYBILL: Mr. Roeder.

DELEGATE ROEDER: Mr. Chairman, I rise in opposition to Mr. Ask's proposal. The Style and Drafting Committee has submitted a very clear, simple ballot. I defy anyone to make it clearer or simpler. Mr. Ask's ballot, by contrast, is extremely complex. It's a complicated version of Mr. Blaylock's go-for-broke ballot, which is a Russian roulette with five shells in the chamber. (Laughter) I might point out, in addition, that Mr. Ask's ballot points out that if you accidentally or intentionally go from one block to another, you void your ballot. A void ballot is a vote against the Constitution, because the total number of voters is determined by the number of people that pick up the ballot.

CHAIRMAN GRAYBILL: Mr. Swanberg.

DELEGATE SWANBERG: I must rise to agree with the remarks made here by Mr. Roeder a moment ago, and what we're all grappling with here is a three-way vote, and it seems to me that Mr. Ask's proposal almost guarantees the defeat of the Constitution. Take, for example, 200,000 people going to the polls to vote for the Constitution or against it, and let's say 100,000 plus 1 vote for the Constitution. It's almost a certainty that this 100,001 people will divide themselves up roughly 50-50 on the unicameral-bicameral issue and the Constitution would be defeated. I don't see how his proposal could possibly be worked to pass this Constitution.

CHAIRMAN GRAYBILL: Mrs. Bugbee.

DELEGATE BUGBEE: Mr. Chairman, may I ask Mr. Schiltz a question?

CHAIRMAN GRAYBILL: Mr. Schiltz?

DELEGATE SCHILTZ: Yes, you may.

DELEGATE BUGBEE: I think the ballot is excellent—

DELEGATE SCHILTZ: Thank you. Is that the answer to your question?

DELEGATE BUGBEE: —it seems to me, but there is just one question I have—under number 2—

CHAIRMAN GRAYBILL: Mrs. Bugbee, you're referring to which ballot?

DELEGATE BUGBEE: The one we just got.

CHAIRMAN GRAYBILL: Well, we're discussing Mr. Ask's.

DELEGATE BUGBEE: I'm sorry.

CHAIRMAN GRAYBILL: You may discuss Mr. Ask's if you want to.
Mr. Ask, will you yield to a question.

DELEGATE ASK: Yes.

CHAIRMAN GRAYBILL: It is possible under your ballot that we could adopt the Constitution and not get either a bicameral or a unicameral Legislature, isn't it?

DELEGATE ASK: Yes, Mr. Chairman, it is conceivable; but putting them both ways, I think it's very unlikely that it's going to happen; but you'll—even the For and Against the alternates are counted from one to the other and they're accumulated—you just don't count block 1 or block 2—but it's inconceivable that you're giving them the vote both ways.

CHAIRMAN GRAYBILL: Mr. Ask, if a hundred thousand people voted, 50,001 for the Constitution and 49,999 against, but 24,000 voted in the upper block for the bicameral and 24,000 below and 23,000 for the unicameral above and 23,000 below, you'd have 48,000 for and 46,000—for the bicameral—and 46,000 for the unicameral. It would be possible then to have a Constitution adopted with no Legislature, is that right?

DELEGATE ASK: That is conceivable—it could happen, but I submit it's unlikely.

CHAIRMAN GRAYBILL: Then we'd be in the position of having to depend on something like Mr. Holland's amendment yesterday to get the old Constitution back in.

DELEGATE ASK: I haven't gone on from there, but this could happen, all right.

CHAIRMAN GRAYBILL: Mr. Kelleher.

DELEGATE KELLEHER: Mr. Chairman, fellow delegates. As a member of the Style and Drafting Committee—I was one of two members of that committee that voted in favor of Mr. Ask's proposal—and we spent 6 hours—what's today, Wednesday?—6 hours Monday afternoon and evening on this and all the time we spent here yesterday. And I've been thinking long and hard about these—this numbers game that we've been playing, and I am—strongly suspect that on June the sixth, there may be some unicameralists around the state who just might urge their people to vote for a unicameral Legislature and leave that first box blank. Now, this is a possibility that we have to consider, so I don't think that this fear that there will not be enough votes—they did gamble to a certain extent in Illinois and a large number of people, as I said yesterday, did not vote on the question of multidistrict, rather single districts—and yet it passed. Now, it's true that Illinois had the old constitution to fall back on, but I suspect that there's going to be a rather heavy vote on this question of bicameral and unicameralism. In fact, at least in my own county of Yellowstone, it's been the only real issue—big issue—in this entire—during the time of this entire Convention, and Mr. Ask's proposal is a very simple proposal. It's very easy to understand. It's true that if you vote on both boxes, you void the ballot, but you can void a paper ballot—the other ballot—just as easily as you can void Mr. Ask's. And I submit that this proposal of Mr. Ask's gives the people a real fair choice on the one overriding and the biggest—not overriding, but the largest and perhaps the gravest issue that has faced this Convention, which we have decided to pass on to the voters, whether we should have one-house or two-house Legislature.

CHAIRMAN GRAYBILL: Mr. Davis.

DELEGATE DAVIS: Could I close on my motion, Mr. President, or someone else wish to speak? Oh, it's your motion, Tom; excuse me.

CHAIRMAN GRAYBILL: Mr. Ask, are you ready to close?
Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. Chairman, delegates. I've been on both sides of this for the last 2 days now, and I've sat and listened patiently. I listened all afternoon yesterday, and I was finally real pleased when one gentleman had the courage to rise and report progress and move along, because I could see we were all tired and wasn't getting anyplace. But the one thing that has finally come to me that I think is wrong with this particular ballot that is put out by the Style and Draft is the fact that it only has the unicameral before the people. I want both of them there so that they either have a choice, unicameral-bicameral—and I think we're making a mistake if we don't. As far as being hard to understand, even I can understand Tom Ask's; so if I can understand it, I know the people in my community can understand it. I don't think it's anything that would be real difficult to explain to the people. I just got to get off the idea that we can only have one thing down there for them to vote on—unicameral For, unicameral Against. If you'd asked me this morning, I might have felt different, but after studying this over the noon hour and thinking about it, I just think we're making a mistake if we don't put both names on there. I support Mr. Ask's on his.

CHAIRMAN GRAYBILL: Mr. Gysler.

DELEGATE GYSLER: Mr. Chairman, after contemplating this over nine holes in the golf course just a little while ago, where the weather was beautiful, I suggest we support the majority report.

CHAIRMAN GRAYBILL: Mr. Ask, do you want to close?
Mr. Jacobsen, do you want to speak?

DELEGATE JACOBSEN: I like Tom's proposal. It does give both parties—or both bicameral and unicameral a fair shake there. I still believe that possibly for the death penalty and for the authorized gambling, we should have separate ballots for those and possibly put these out—and possibly a light red, possibly, for the death penalty and a blue for the authorized gambling and a white for the other part—and have these separate ones, because I know that any others that have worked in the polling places as judges will know that when we've had special elections or elections for bond issues and so on, that that is a good way to get the vote and call attention to these things, especially for those people that have come to vote because of either one of these articles; and we hope that this will bring a lot of people out to vote; and I think then it wouldn't be as confusing to have all of these squares on the one ballot. Thank you.

CHAIRMAN GRAYBILL: Mrs. Erdmann.

DELEGATE ERDMANN: Mr. President, I rise in complete support of Tom Ask's proposal. I think that when we campaigned, at least in our county, we assured the people they'd have a clear-cut decision between the unicameral and bicameral. I do not believe that this is too difficult a proposal if they use very large print in the top of the ballot, which assures the people that they vote either in block 1 or block 2. I do not believe it is too difficult, and it gives a clear-cut decision. Thank you, Mr. President.

CHAIRMAN GRAYBILL: Mrs. Bates.

DELEGATE BATES: Mr. Chairman, I approve of the committee's report, and I would oppose Mr. Ask's report for the simple reason that I think it's too complicated. I would like a point of information here. Isn't it possible to change number 2 on this ballot, if we get back to it, for unicameral or for bicameral?

CHAIRMAN GRAYBILL: It is.

DELEGATE BATES: Okay, that's all.

CHAIRMAN GRAYBILL: Mr. Garlington.

DELEGATE GARLINGTON: Mr. Chairman, I just want to comment on one subject here. I've heard again and again, yesterday and today, the thought that we must have a clear-cut decision between unicameral and bicameral. The facts of the matter are that this is utterly and totally impossible, because there is a third group to be reckoned with, just like Mr. Swanberg said, and that is the group that doesn't want to have any new Constitution at all; and if nobody were going to vote except those who were choosing the new Constitution, then you would have—we could easily frame the issue that would deal between the choice of "uni" or "bi". But in the nature of things, we have a third group in here; and that is what creates the hazard and that's why we dare not set it up so that we are in this position of voting on "uni" or "bi", in our idealism, and forgetting about the fact that those that are opposed to the whole project may succeed in defeating it with a very small minority of the actual numbers of people wanting progress in constitutional reform.

CHAIRMAN GRAYBILL: Mr. Romney.

DELEGATE ROMNEY: Mr. Chairman, I support the Ask proposal. I do it because it does give a choice, and the same arguments that were made by the delegate from Missoula apply to the majority report—or plan which is before us, because the same people who would vote against the Constitution for any reason, being against it and not for either bicameral or unicameral, would also vote against the majority report. There's not so much opportunity for that in the 2-block system of Mr. Ask's, and so I support the Ask proposal.

CHAIRMAN GRAYBILL: Mr. James.

DELEGATE JAMES: Mr. Chairman, will Mr. Ask yield?

CHAIRMAN GRAYBILL: Mr. Ask?

DELEGATE ASK: Yes, I'll yield.

DELEGATE JAMES: Tom, there's something bothers me. If you vote against the proposed Constitution and you vote for a unicameral Legislature, you're actually amending the old Constitution, aren't you?

DELEGATE ASK: Oh, I suppose—indirectly.

DELEGATE JAMES: Yes, but can you amend it—is this legal to amend it this way? This is something that's bothering me.

DELEGATE ASK: Well, if the alternates pass and the main proposition fails, all alternates fail, so—but, I mean, even though they vote against, you're still giving the right to vote For a unicameral-bicameral or Against—For Against the death penalty and For or Against gambling. And—

DELEGATE JAMES: But, actually, you're just voting For or Against the Constitution, and if the "For" carries, then the other things apply; otherwise, the top item doesn't—the "uni" or "bi"—if you're Against.

DELEGATE ASK: If the top item doesn't carry, why, the entire thing is defeated.

DELEGATE JAMES: Thank you.

CHAIRMAN GRAYBILL: Mr. Ask, you may close.

DELEGATE ASK: On Tuesdays we trust the Legislature. On—this is Wednesday—we trust the voters. And I think they're intelligent enough to go through this, and I think my ballot gives them a clear choice of what they want to do. And it is possible, but it is inconceivable to me, that you wouldn't receive a majority for either a bicameral or a unicameral Legislature; and even though they vote against, I still think they have the right and will want the right to vote on these three alternatives; and I think this is the only one that gives us a clear choice. The majority report of the Style and Drafting—I can't predict how that's going to come out, because the bicameral is in there and just the unicameral mentioned separately. What's the effect of this? I don't know. But I think—my ballot, you have a clear choice. You either go one way or the other. And with that I close, Mr. Chairman.

CHAIRMAN GRAYBILL: Very well, we'll have a roll call vote. So many as shall be in favor of the Ask proposal, vote Aye; so many as shall be opposed, vote No. Has everybody voted?

(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, take the ballot.

Aasheim	Nay
Anderson, J.H.	Nay
Anderson, O.	Aye
Arbanas	Nay
Arness	Absent
Aronow	Nay
Artz	Nay
Ask	Aye

Babcock	Aye
Barnard	Nay
Bates	Nay
Belcher	Aye
Berg	Nay
Berthelson	Nay
Blaylock	Aye
Blend	Absent
Bowman	Nay
Brazier	Aye
Brown	Nay
Bugbee	Nay
Burkhardt	Nay
Cain	Nay
Campbell	Excused
Cate	Aye
Champoux	Nay
Choate	Nay
Conover	Aye
Cross	Nay
Dahood	Nay
Davis	Nay
Delaney	Nay
Driscoll	Nay
Drum	Absent
Eck	Nay
Erdmann	Aye
Eskildsen	Aye
Etchart	Nay
Felt	Nay
Foster	Nay
Furlong	Nay
Garlington	Nay
Gysler	Nay
Habedank	Aye
Hanson, R.S.	Nay
Hanson, R.	Nay
Harbaugh	Nay
Harlow	Aye
Harper	Aye
Harrington	Nay
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Nay
Johnson	Nay
Joyce	Nay
Kamhoot	Nay
Kelleher	Aye
Leuthold	Nay
Loendorf	Nay
Lorello	Nay
Mahoney	Nay
Mansfield	Nay
Martin	Nay
McCarvel	Nay
McDonough	Nay
McKeon	Nay
McNeil	Nay
Melvin	Nay
Monroe	Nay
Murray	Nay
Noble	Nay
Nutting	Nay
Payne	Nay
Pemberton	Nay
Rebal	Absent
Reichert	Aye
Robinson	Aye
Roeder	Nay
Rollins	Aye
Romney	Aye
Rygg	Absent
Scanlin	Nay
Schiltz	Nay
Siderius	Nay
Simon	Nay
Skari	Absent
Sparks	Nay
Speer	Nay
Studer	Aye
Sullivan	Nay
Swanberg	Nay
Toole	Nay
Van Buskirk	Absent
Vermillion	Nay
Wagner	Nay
Ward	Nay
Warden	Nay
Wilson	Nay
Woodmansey	Nay
Mr. Chairman	Nay

CLERK HANSON: Mr. Chairman, 21 delegates voting Aye, 70 voting No.

CHAIRMAN GRAYBILL: 21 having voted Aye and 70 having voted No, Mr. Ask's proposal is defeated. Now, the Chair considers the issue now to be the Style and Drafting Committee's majority proposal, which, in fact, is the same as Davis' through 1 and 2.

Mr. Harbaugh.

DELEGATE HARBAUGH: I'd like to take up the challenge that Mr. Roeder offered a moment ago about simplifying this. I am wondering why, in the second part on the unicameral option, that there are two choices—For unicameral and Against unicameral? It seems to me that those persons who are—who want a bicameral Legislature get two votes. They vote for the Constitution, thereby they vote for bicameral. Then they come down to Section 2 and they vote against unicameral, thereby they get another vote. And it would seem to me to simplify this ballot very much if we simply eliminated 2-B and allowed the people to either cast a Yes or No vote for unicameral, or vote for unicameral.

CHAIRMAN GRAYBILL: Mr. Swanberg.

DELEGATE SWANBERG: I am in complete agreement, Mr. President, with Mr. Harbaugh's comments, and I would move at this time that line marked 2-B be deleted from the proposed ballot.

CHAIRMAN GRAYBILL: Very well. Mr. Swanberg has an amendment which would eliminate line 2-B—2-B—from the ballot, so it would—so the sense of it would be that if you wanted to vote for unicameral, you could check it; but you didn't need to check against unicameral, you already having voted, presumably, up above. That's the sense of his motion.

Mr. Driscoll.

DELEGATE DRISCOLL: Mr. Chairman, I propose a substitute motion for the motion now pending—that the words "Against the unicameral" be stricken and that the words "For a bicameral, two-house Legislature" be inserted.

CHAIRMAN GRAYBILL: Very well. Mr. Driscoll has a substitute motion, the effect of which is to change, in line 2-B, the "Against" to "For" and the "unicameral" to "bicameral" so it would read: "For a bicameral". In other words, in the second vote, you would have "For a unicameral" or "For a bicameral". I might point out this has the effect of being ballot number 1 yesterday and, in my view, is the Joyce amendment of yesterday and is another alternative way of presenting this issue. Mr. Driscoll, have I fairly stated your motion?

DELEGATE DRISCOLL: Yes.

CHAIRMAN GRAYBILL: All right, we'll discuss Mr. Driscoll's motion.

Mr. Hanson—Rod.

DELEGATE ROD HANSON: Mr. President, this seems to be a question of 2-B or not 2-B—(Laughter)

CHAIRMAN GRAYBILL: We'll let that pass, Mr. Hanson.

DELEGATE ROD HANSON: Okay, it's a point of interest then. The way this is set up, do you need a majority or do you need 50 percent plus one vote in item 2 for a bicameral Legislature, if we put it in, or would the vote above take precedence over the bottom vote?

CHAIRMAN GRAYBILL: The vote above—it's the Chair's understanding, and I'll just try and answer that—it's the Chair's understanding that the word "majority" in the box up there says that when you voted up there, assuming a majority vote for the Constitution and you have the bicameral, then it takes a majority under 2 to prevail, so unicameral would have to get a majority there. Now, bicameral, if it got a majority there—it would have already been in above, so it wouldn't matter whether it got it or not—but if it got it, it wouldn't harm anything.

Mr. Harper, I think you were up next.

DELEGATE HARPER: Yes. I like the way this is worded, and I'd just as soon take it to court after the election, because it says: "The proposed Constitution includes a bicameral Legislature unless replaced by a majority vote for a unicameral in issue 2 immediately below." Now, I submit to you that the average person, when he is voting in the issue below, issue 2—if he saw that one got more than the other, he would call that a majority vote. But what we know we mean—we're not telling the voter this—but we know we mean that a majority of all of those who vote in this election, whether they vote in issue 2 or not—you could get a majority on one of those down there. Actually, of course, the bicameral doesn't have to get any votes. That's not really the issue. I'm glad to see the bicameral in it. I'm going to go for these words. The unicameral has to get 51 percent of the total electors voting in the election or it has no chance. It's quite conceivable that a unicameral could get a majority in number 2 and still not become the law; and I think a lot of people, if not confused, would be downright mad about that. So if we keep this wording the way it is, then I hope we'll go to court and go to bat for the majority vote; and if we don't mean that, then I think we ought to rephrase the language in this box and make it perfectly plain that you have to have a majority of all the people voting in this election before 2-A has a chance of carrying. You see the point?

CHAIRMAN GRAYBILL: Mr. Harper, I see the point, and if we happen to adopt Mr. Driscoll's motion, it's conceivable that the language in the box would have to be changed. Actually, the way the committee drew it up, it is technically correct—that a majority still is a majority and unicameral would have to have a majority of—a majority is defined by the Constitution in the Enabling Act—before anything could happen, no matter what we told them.

DELEGATE HARPER: Mr. Chairman, let me read you again—"replaced by a majority vote in issue 2 immediately below." I submit to you that when people vote in issue 2, they will think a majority is the one that gets the most votes. Now, I don't believe I'm that dumb. I think the average citizen reading that will know that. Unless he knows—We spoke to a couple of members of the Supreme Court yesterday morning. We raised this issue, and they did not understand that this was in there.

CHAIRMAN GRAYBILL: You're not implying that the Supreme Court actually discussed this with you, are you? Because that would seem to me to be—

DELEGATE HARPER: I discussed it with them.

CHAIRMAN GRAYBILL: You just tell us which ones those are. You won't use those when you take it to court, because that—

DELEGATE HARPER: (Inaudible)—all discussed—

CHAIRMAN GRAYBILL: —would not be proper for a judge to do, Mr. Harper.

DELEGATE HARPER: We were not discussing the ballot. They said they were not aware of this complication in the Enabling Act.

CHAIRMAN GRAYBILL: Yes, well—they should not be discussing our ballot. They might be sitting on it, so I trust that nobody will put the Supreme Court in that terrible position again. I am very serious about that. You should not discuss constitutional issues with Supreme Court judges until they get there, so let's all stay away from them on this issue. You can go there afterwards, but we shouldn't prejudge them. I just point that out to the whole body. We really ought to stay away from the Supreme Court and let them have a fair chance to decide it, Mr. Harper.

DELEGATE HARPER: I didn't discuss a constitutional issue with them, Mr. Chairman, but I won't go into a long speech to refute your reputation of what you assume we talked about when you didn't know.

CHAIRMAN GRAYBILL: You said it; I didn't, Mr. Harper.

DELEGATE HARPER: I'm still up on this point and I think it's valid. I think the average citizen would read that and say that it means a majority vote in issue 2, since that's what it says, and I'd like to see that wording changed.

CHAIRMAN GRAYBILL: Very well, the issue is on Mr. Driscoll's substitute motion to put the words "for a bicameral" in the second section.
Mr. Anderson.

DELEGATE OSCAR ANDERSON: Mr. President, a point of clarification. If someone voted for the Constitution and then later on, say in Section 2-A and 2-B, marked both of them, would that void the whole ballot or just that portion of the ballot that they voted for both—say 2-A and 2-B, or if they done this on 3 and 4?

CHAIRMAN GRAYBILL: It says in 2, "Vote for one". It says in 1, "Vote for one". It says in each of them, "Vote for one"; if you vote for two, you've—in my judgment, you have voided your ballot.

DELEGATE OSCAR ANDERSON: The entire ballot?

CHAIRMAN GRAYBILL: I don't know the answer to that. Maybe some other attorneys would like to judge that, but I don't know.

DELEGATE OSCAR ANDERSON: Does anyone else want to answer that question? I think that's an—important for us to consider.

CHAIRMAN GRAYBILL: Mr. McDonough.

DELEGATE McDONOUGH: Mr. Chairman, I don't think you would void the ballot. I had an occasion to look that up one time in an election. You only void the position that you vote for if you don't properly mark the "X" in the right box, and not the whole ballot.

CHAIRMAN GRAYBILL: Mr. Heliker.

DELEGATE HELIKER: Mr. Chairman, I support Mr. Driscoll's amendment because I think it will give a clearer choice and perhaps attract more votes to the issue and give us a better poll—

and that's all it's going to be is a poll. I have prepared some arithmetic on this question of the chance of the unicameral prevailing as a side issue, and I conclude that there's about a 95 percent probability that has no chance whatsoever. This would be true, of course, if we put the bicameral as a side issue, too. In other words, the one we put in the Constitution is almost certain to be adopted. Now, I had that printed and I would have had it on your desks by now, but steno pool made an error, so it had to go back through the process. You will get it a little later. But I think that on any reasonable assumptions that you make that the statement the Chair made yesterday that there would be a slight disadvantage to the one that's on the side ballot is quite wide of the mark, and that, as a matter of fact, the ones on the side ballot has no chance at all of being adopted except in very, very unusual circumstances.

CHAIRMAN GRAYBILL: Very well, the issue is on Mr. Driscoll's substitute motion that we substitute the words on line 2-B, "For a bicameral, two-house, Legislature" in place of "Against a unicameral, one-house, Legislature". Mr. Ask, do you want to discuss it further?

DELEGATE ASK: Mr. Chairman, would Mr. Schiltz yield to a question, please?

CHAIRMAN GRAYBILL: Mr. Schiltz?

DELEGATE SCHILTZ: I yield.

DELEGATE ASK: Mr. Schiltz, if on the Driscoll amendment, that'll be for a bicameral—that'd be 2-B—say there is more votes for the unicameral than the bicameral yet it's not a majority equal to the ones voted for the Constitution, what would be the result?

DELEGATE SCHILTZ: You're saying what Mr. Harper was inquiring?

DELEGATE ASK: Was that his inquiry?

DELEGATE SCHILTZ: Well, you're saying that perhaps unicameral prevailed or bicameral prevailed—or whatever—by, say, 46 percent of the total vote cast?

DELEGATE ASK: Yes.

DELEGATE SCHILTZ: I would say that it would lose, and I say it would lose because the law is what the law is, no matter whether we add that language or don't add that language up in the box.

DELEGATE ASK: I see. Thank you.

CHAIRMAN GRAYBILL: Mr. Habedank.

DELEGATE HABEDANK: Mr. President, I support the Driscoll amendment, and I will offer, when we get through with that, an amendment to the wording in the box to clarify it so the people will know exactly what they're doing.

CHAIRMAN GRAYBILL: Mr. Gysler.

DELEGATE GYSLER: Mr. Chairman, I speak in opposition to the Driscoll amendment and for the majority report, because it just seems as though this eliminates all of the confusion and all of the things that might happen in case of these minority votes.

CHAIRMAN GRAYBILL: Mr. Swanberg.

DELEGATE SWANBERG: Mr. President, I also rise in opposition to the Driscoll amendment, because it puts us right back where we were, where we have a fractured vote divided into three components, where perhaps nothing might pass. We've got to allow—I should say we have to provide a ballot here that will allow the Constitution to pass, and if we, down in item 2-B and 2-A, give them a choice between unicameral and bicameral, those in favor of the Constitution—this has been said about a hundred times now, but I'll say it again—those in favor of the Constitution divide themselves up into two camps, neither of which will constitute a majority of those voting, and we wind up again with a Constitution without a Legislature.

CHAIRMAN GRAYBILL: Mrs. Reichert.

DELEGATE REICHERT: Mr. Chairman, I rise in support of the Driscoll amendment because I think it will be the only true picture we get of how the voters feel about unicameral or bicameral. Otherwise, we will never know by those who voted Yes for the Constitution, because I am sure that most of those who favor unicameral will vote Yes. They will not refrain from voting or vote No, for that reason, but we'll have no conception of the feeling about unicameral. And if some of us want to mount an initiative campaign or do something along this line, we'll have no way of knowing what the true picture is unless we adopt something similar—or—I would like to see the Driscoll amendment adopted.

CHAIRMAN GRAYBILL: Mr. Harbaugh.

DELEGATE HARBAUGH: Mr. Chairman, I wonder if there isn't another problem. I wonder if the language in the box might not imply to some voters that the bicameral we're thinking of is the—in fact, the bicameral Legislature of the old Constitution and that if they thought that, they might feel that they were voting, then, for the Legislative Article as it exists in the old Constitution and that when they came down to the second part, they might then feel that they were voting for the new proposals. And I think this would be seriously misleading the public, and I would have to vote against the Driscoll amendment on that basis.

CHAIRMAN GRAYBILL: Mrs. Warden.

DELEGATE WARDEN: Mr. President, I have a question, and maybe I'm stupid—I guess maybe I am on this—but I would like to know what would happen on 2-A and 2-B under the Driscoll plan if the bicameral didn't get 51 percent and the unicameral didn't get 51 percent and the proposed Constitution in box 1 had enough votes. Well, that has the bicameral in it. Where would we be?

CHAIRMAN GRAYBILL: Then the bicameral would be the Constitution, Mrs. Warden. That's the purpose of putting the bicameral in the Constitution.

DELEGATE WARDEN: Yes, but if you didn't vote on it down below to get a 51 percent, wouldn't that count?

CHAIRMAN GRAYBILL: It wouldn't matter if it didn't get 51 below if it got 51 above.

DELEGATE WARDEN: Okay, thank you.

CHAIRMAN GRAYBILL: Very well, Mr. Driscoll, you may close.

Well, Mr. Aasheim, do you want to speak?

DELEGATE AASHEIM: Yes, Mr. President. I support the Driscoll amendment. I think it's a clear ballot and there would be no question in the minds of the people, when they're voting, how they stand. As Mrs. Reichert said, we would then have a poll on how the populace stood on the two issues.

CHAIRMAN GRAYBILL: Mr. Driscoll, you may close.

DELEGATE DRISCOLL: Mr. Chairman, I close. Everything has been said, and we'll do our business now.

CHAIRMAN GRAYBILL: Very well, we'll have a roll call vote; and the sense of what you're voting on now is whether to—Mr. Driscoll proposes making the second vote there, one between unicameral and bicameral; whereas, the committee proposal makes the second vote one between being for and against the unicameral. And, assuming the bicameral's in, you're now choosing the manner in which the one that's outside will appear. It will either appear as unicameral only or it will appear as unicameral and bicameral; and under either circumstance, there may be changes we need to make in the box above. Very well; so many as may be in favor of Mr. Driscoll's amendment, which puts the words "For a bicameral house" in as 2-B, vote Aye; and so many as are opposed, vote No. Has every delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, cast the ballot.

Aasheim	Aye
Anderson, J.H.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Nay
Bates	Aye
Belcher	Aye
Berg	Nay
Berthelson	Nay
Blaylock	Aye
Blend	Nay
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Nay
Cain	Aye
Campbell	Excused
Cate	Aye
Champoux	Aye
Choate	Aye
Conover	Aye

Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Aye
Driscoll	Aye
Drum	Absent
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Nay
Gysler	Nay
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Nay
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Nay
Joyce	Aye
Kamhoot	Nay
Kelleher	Aye
Leuthold	Aye
Loendorf	Nay
Lorello	Nay
Mahoney	Nay
Mansfield	Nay
Martin	Nay
McCarvel	Aye
McDonough	Aye
McKeon	Aye
McNeil	Aye
Melvin	Aye
Monroe	Absent
Murray	Absent
Noble	Nay
Nutting	Aye
Payne	Nay
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Nay
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Nay
Siderius	Aye
Simon	Nay
Skari	Aye
Sparks	Aye
Speer	Nay
Studer	Aye
Sullivan	Aye
Swanberg	Nay
Toole	Nay
Van Buskirk	Aye
Vermillion	Aye
Wagner	Nay
Ward	Aye
Warden	Nay
Wilson	Nay
Woodmansey	Nay
Mr. President	Aye

CLERK HANSON: Mr. Chairman, 68 delegates voting Aye, 27 voting No.

CHAIRMAN GRAYBILL: Very well, since 68 have voted Aye and 27 No, Mr. Driscoll's motion passes and the second ballot now reads: "2-A, For a unicameral, one-house; 2-B, For a bicameral, two-house, Legislature."

Mr. Swanberg, this has, in my opinion, the effect of deleting your motion, which was to delete 2-B, but if you want to put it again, we'll test it.

DELEGATE SWANBERG: I think it would be futile, Mr. President. Nevertheless, I think the matter is important enough and I would ask for a roll call vote on my motion to delete.

CHAIRMAN GRAYBILL: Mr. Swanberg has again put the issue of whether to delete line 2-B, the point being that we'd now be deleting the line that says, "For a bicameral, two-house, Legislature." He wants a roll call vote. Is there any discussion?

Mrs. Bugbee.

DELEGATE BUGBEE: Mr. Chairman, could Mr. Schiltz discuss this? What are the implications—what would be the implications of this? It sounds like a good idea to me.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: You're talking about deleting 2-B altogether?

CHAIRMAN GRAYBILL: Yes, sir.

DELEGATE SCHILTZ: Well, I have no brief for it, one way or another. I think that the people ought to be given a choice, and that's what the committee decided, and so we, I think unanimously on that proposition, decided that we would give the people a choice in that connection. I don't—as to effect, I have no idea what the effect would be. I think the people could adopt the unicameral by voting for it there and overcome the bicameral that's in the first proposition by so doing, but I think they could also do it with two boxes—or two choices.

CHAIRMAN GRAYBILL: Very well, the—

Mrs. Bates, do you want to discuss his motion to delete line 2-B?

DELEGATE BATES: Yes. Mr. Chairman, if you did this and you left your first statement up above, that vote on all four issues, there really isn't a choice then. Either you would have to put "For a unicameral, Yes or No", or leave it as it is or change that again, because you have to provide the voters with a choice.

CHAIRMAN GRAYBILL: I think you're right. We might have to say, "you may vote on all four", but you couldn't say they should.

Very well, Mr. Swanberg, do you want to close?

DELEGATE SWANBERG: Just a few brief comments, Mr. President. We want to make this ballot as simple as possible and as easy to understand as possible, and we want to prepare a ballot whereby the Constitution can pass. It's pointless to stay here for 60 days working on a proposed Constitution and then submit a ballot that's so complicated that it cannot possibly pass the voter or one which, by the laws of probability and the rules of arithmetic, could not possibly pass the voters. Now, I submit for your consideration that the voter, when he goes to the polls, has three choices. He can vote for the Constitution or he can vote against the Constitution, and then he has one third choice wherein—whereby he puts in a unicameral alternate if he wants it. Those are the three choices he has, and those are—those should be all that he has. To put a fourth one in simply muddies the water. Poll-taking is, I suppose, a nice thing to do; but when we're trying to get a Constitution passed, let's forget about taking polls; let's concentrate on trying to pass the Constitution. I would further submit for your consideration that those who favor the unicameral article would themselves be taking a poll by voting on that issue, so all we need here is three items—for the Constitution, against the Constitution, and for the unicameral alternate—and that's all we should submit to the people.

CHAIRMAN GRAYBILL: Mr. Wilson, for what purpose do you rise? Do you want to discuss it?

DELEGATE WILSON: Yes.

CHAIRMAN GRAYBILL: Very well.

DELEGATE WILSON: I hesitate to get up here, but I think that by the act of our last vote, we have caused a legal question on our ballot.

CHAIRMAN GRAYBILL: Well, we're not quite through with it yet, Mr. Wilson. Very well, I guess that we're ready to vote. It'll be a roll call vote. All those in favor of Mr. Swanberg's proposal to strike 2-B entirely, vote Aye; and all those opposed, vote No. Has every delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, cast the ballot.

Aasheim	Nay
Anderson, J.H.	Nay
Anderson, O.	Nay
Arbanas	Nay
Arness	Nay
Aronow	Nay
Artz	Nay
Ask	Nay
Babcock	Nay
Barnard	Nay
Bates	Nay
Belcher	Nay
Berg	Aye
Berthelson	Aye
Blaylock	Nay
Blend	Aye
Bowman	Aye
Brazier	Nay
Brown	Aye
Bugbee	Aye
Burkhardt	Nay
Cain	Nay
Campbell	Excused
Cate	Nay
Champoux	Aye
Choate	Aye

Conover	Nay
Cross	Nay
Dahood	Absent
Davis	Aye
Delaney	Nay
Driscoll	Nay
Drum	Absent
Eck	Nay
Erdmann	Nay
Eskildsen	Nay
Etchart	Nay
Felt	Nay
Foster	Nay
Furlong	Nay
Garlington	Nay
Gysler	Aye
Habedank	Nay
Hanson, R.S.	Nay
Hanson, R.	Nay
Harbaugh	Aye
Harlow	Nay
Harper	Nay
Harrington	Nay
Heliker	Nay
Holland	Absent
Jacobsen	Nay
James	Nay
Johnson	Nay
Joyce	Nay
Kamhoot	Nay
Kelleher	Nay
Leuthold	Nay
Loendorf	Nay
Lorello	Nay
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Nay
McDonough	Nay
McKeon	Absent
McNeil	Nay
Melvin	Nay
Monroe	Absent
Murray	Absent
Noble	Nay
Nutting	Aye
Payne	Nay
Pemberton	Absent
Rebal	Nay
Reichert	Nay
Robinson	Aye
Roeder	Nay
Rollins	Aye
Romney	Nay
Rygg	Nay
Scanlin	Nay
Schiltz	Nay
Siderius	Nay
Simon	Nay
Skari	Nay
Sparks	Nay
Speer	Nay
Studer	Aye
Sullivan	Nay
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Nay
Wagner	Nay
Ward	Nay
Warden	Nay
Wilson	Nay
Woodmansey	Nay
Mr. President	Nay

CHAIRMAN GRAYBILL: Mr. Habedank is on the aisle where you are. Will you take that to him, please, quickly.

CLERK HANSON: Mr. Chairman, 21 delegates voting Aye, 71 voting No.

CHAIRMAN GRAYBILL: 21 having voted Aye and 71 having voted No, Mr. Swanberg's motion is defeated.

Now, Mr. Mahoney, Mr. Habedank has a motion before the Chair, but I'm asking him about a word, and I think I want him to be next. Now, if you want to—

DELEGATE MAHONEY: (Inaudible)—point of information.

CHAIRMAN GRAYBILL: All right, that would be a fine thing to take the time.

DELEGATE MAHONEY: Could we have the Chairman of the Style and Drafting Committee tell me just where we are in Section 2 now, in relation to the majority?

DELEGATE SCHILTZ: I assume, Mr. Mahoney, that you're asking about whether the law that I explained and went through yesterday still obtains? Certainly, it does. We still need, down in Section 2, to get 50 percent of the vote, plus one, to overturn a bicameral Legislature. Is that your question?

CHAIRMAN GRAYBILL: Mr. Mahoney.

DELEGATE MAHONEY: Well, this—we go back to the board—say that the Constitution passes, then we go down here in the unicameral and we get 40 percent unicameral and we get 35 percent bicameral. Where are we at?

DELEGATE SCHILTZ: Then we still have the Constitution with the bicameral in it on the vote for the Constitution up above.

CHAIRMAN GRAYBILL: And, Mr. Mahoney, the point of Mr. Habedank's motion is to clean up the language in the box a little there, because we've changed the word down below.

Mr. Habedank, do you wish to make your amendment?

DELEGATE HABEDANK: Yes, Mr. President.

CHAIRMAN GRAYBILL: All right. Have you got a copy of it?

DELEGATE HABEDANK: I have it. Would you read it.

CHAIRMAN GRAYBILL: All right, Mr. Habedank proposes an amendment which says: "I move to amend the words in the box to read as follows: The proposed Constitution includes a bicameral, two-house Legislature unless replaced by a majority vote"—then he would add this language—"of those voting at this election, voting for a unicameral, one-house Legislature in issue 2 immediately below." Is that right? Do you want that second voting in?

DELEGATE HABEDANK: Strike the voting. I agree with you.

CHAIRMAN GRAYBILL: Strike the voting. All right, then it would say "a majority vote of those voting at this election for a unicameral, one-house Legislature on issue number 2 immediately below." In other words, he's added the words, "of those voting at this election", so it says, "a majority vote of those voting at this election, for a unicameral Legislature on issue number 2 below." And it has the effect, Mr. Mahoney, of clearing up Mr. Harper's point that the word "majority vote" is then defined as a certain majority vote; namely, a majority vote of those voting at this election. Is that right, Mr. Habedank?

DELEGATE HABEDANK: That's my intent, Mr. President. I feel that, with this, we are telling the people exactly what's going to happen. There's no question about it, even though the law may be otherwise, and I don't think that words are that—or a shortage of words is that important.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, on the contrary, I submit that Mr. Habedank has compounded the felony and made it possible to read that if the—what Mr. Mahoney was just asking—if down below there's a 35 and a 38 percent vote, one of those is going to carry. Now, if you read that carefully, that's what happens. It reads just like this: "The proposed Constitution includes a bicameral, two-house Legislature unless replaced by a majority vote of those voting at this election for a unicameral."

CHAIRMAN GRAYBILL: No, he's got "at this election comma".

DELEGATE SCHILTZ: Well, I don't—I submit that that comma is not all that effective. I think it's more misleading than it was.

CHAIRMAN GRAYBILL: Well, all right, but he does have it there. May the Chair inquire of Mr. Schiltz—would you prefer if it said a majority vote of the total cast on ballot number 1?

DELEGATE SCHILTZ: Well, I heard Mr. Murray say yesterday that ballot number 1 is what the Secretary of State is going to adopt, and I don't trust the Secretary of State all that much. I have the feeling that if, down there on item number 4, we got 210,000 votes and on item number 1 we got 200,000 votes that he, by golly, ought to say that the total number of votes cast at this election was 210,000 votes. What Frank Murray says has never impressed me all that much, and it impresses me less on this subject. My point, Mr. Chairman, so far as the box is concerned—and I said it just a minute ago, and I think that any lawyer in the place would probably—or most of them, at least—would probably agree with me, that we don't need to delineate the law. The law is what the law is; and if it turns out that an odd voter misunderstands that and turns out to be disappointed, that's too bad, because the law is what the law is; and I don't think we need to play with that language at all.

CHAIRMAN GRAYBILL: Mrs. Eck, I think you were up before.

DELEGATE ECK: Mr. Chairman, would Mr. Schiltz yield for a question?

CHAIRMAN GRAYBILL: Mr. Schiltz?

DELEGATE SCHILTZ: I yield.

DELEGATE ECK: Mr. Schiltz, would it clarify it at all—you know, thinking that some of us would like it clarified—if we say, "unless a majority of all those voting on this ballot—or in this election, vote for a unicameral Legislature in issue 2 immediately below"?

DELEGATE SCHILTZ: That would be infinitely better than what Mr. Habedank proposed. It would probably only clarify it if we printed the entire debate that took place yesterday on the question of 50 percent plus one. I don't think we need to do any of that.

DELEGATE ECK: Mr. Chairman, I would like to submit this as a substitute amendment. Would you like to get me to take it up in writing?

CHAIRMAN GRAYBILL: Well, just a minute. If you'll make—If you'll read it to me slowly.

DELEGATE ECK: Okay.

CHAIRMAN GRAYBILL: "Unless"—after "unless".

DELEGATE ECK: "—unless a majority of all those voting in this election—or on this ballot"—whichever you think would be better—"on this ballot vote for a unicameral", et cetera.

CHAIRMAN GRAYBILL: Mr. Habedank, have you heard that language?

DELEGATE HABEDANK: Unless a majority of those voting on this ballot vote what?

DELEGATE ECK: For a unicameral—

CHAIRMAN GRAYBILL: "—for a unicameral Legislature in issue number 2 immediately below."

DELEGATE HABEDANK: Mr. Chairman, I don't think that takes away the effect of what I'm trying to do, and as far as Mr. Schiltz's position is concerned, I can agree with him. What we say probably won't affect the law, and that applies to what we say here as well as what he says, and I think what we're trying to say is a lot more coherent than what he's trying to say.

CHAIRMAN GRAYBILL: How about what Mrs. Eck is trying to say? (Laughter)

DELEGATE HABEDANK: I like what Mrs. Eck is trying to say.

DELEGATE ECK: Mr. Chairman, Mr. Brown just made another suggestion here and—which might clarify it a little better. He said that it might be better to have "also vote for a unicameral". In other words, at the end of the amendment, add an "also".

CHAIRMAN GRAYBILL: "—unless a majority of all those voting on this ballot also vote for a unicameral, one-house Legislature in issue number 2 immediately below."

DELEGATE ECK: That's right. Thank you.

CHAIRMAN GRAYBILL: All right. Now, just a minute so I keep straight up here. Mrs.—I'll allow Mrs. Eck's substitute amendment, and then we can defeat it or pass it. All right, now, the Chair will reset the stage, and then we'll discuss it. The box you have before you—now, Mr. Habedank moved that after the word "majority vote", we add "a majority vote of those voting at this election, for a unicameral, one-house, Legislature." Mrs. Eck has now made a substitute motion that we start up a little higher, at the word "unless", and it would say: "The proposed Constitution includes a bicameral, two-house, Legislature unless a majority of all those voting on this ballot also vote for a unicameral, one-house, Legislature in issue Number 2 below." That's the issue. Now, who'd like to discuss it?

Mr. Harbaugh.

DELEGATE HARBAUGH: Mr. Chairman, I'd like to direct a question to Mr. Habedank.

DELEGATE HABEDANK: I yield.

DELEGATE HARBAUGH: Mr. Habedank, was the intent of—would the intent of what you meant in your original motion be clarified if we said, "of those voting for or against the Constitution"?

DELEGATE HABEDANK: No, I don't feel it would. I think "voting on this ballot", as Mrs. Eck has it, would cover the situation—or "voting on this proposition"—or any one of a number of words can be used.

DELEGATE HARBAUGH: Mr. Chairman, it seems to me that we're still somewhat confused by "voting on this ballot", that phrase, whether that applies to all of the subsections or whether it applies just to the first section of this ballot, and if the intention is to count as—for the purpose of determining majority—just those who vote for or against the Constitution, then I think that's what we ought to say.

CHAIRMAN GRAYBILL: Well, that might be, Mr. Harbaugh. The Chair would just observe that Mr. Schiltz's point is still well taken. It doesn't matter what we say. Unless they get an absolute majority, nobody can allow unicameral in, so it really doesn't matter as long as you're not—it doesn't matter how you count it. It doesn't matter if you count 1, 2, 3, or 4—until an absolute majority of what the court will hold eventually is the number 1 issue, it doesn't matter; but if you want to make another one after we've amended or voted on these two, we can have another go at it. Mrs. Eck.

DELEGATE ECK: Mr. Chairman, I really think that Mr. Schiltz is right here, that probably the more words we add, the more confusing it's going to be. We're not following our exact words down below, and I would like to withdraw my amendment.

CHAIRMAN GRAYBILL: Mrs. Eck's is withdrawn. All right, Mr. Habedank's is not, yet, so we're voting on whether or not to add, after the words "a majority vote"—the phrase "a majority vote of those voting at this election, for a unicameral, one-house, election—one-house Legislature". Mr. Choate.

DELEGATE CHOATE: Mr. Chairman, I think the further we go with this, the more confused we do become. And I wonder if it is necessary to put this information on the ballot, at all, that's contained in this box; and as a substitute motion, I would move that we delete it. It's certainly going to confuse the voters.

CHAIRMAN GRAYBILL: Now, Mr. Choate, I'm going to let you put that motion if you want to, but seven lawyers on Style and Drafting and the President and several other lawyers I've talked to all agree that you must have some language like this, otherwise Mr. Aasheim's point yesterday, that everybody that votes in the first box must be counted for bicameral, makes it impossible for unicameral ever to win if the Constitution wins. Do you follow us?

DELEGATE CHOATE: Well, I don't understand why that is so. Perhaps it is. For what reason would it be necessary that—

CHAIRMAN GRAYBILL: Because the Constitution would necessarily include bicameral, and when you vote it up there, if you don't have this caveat in there, then the court is going to hold that a vote up at the top is a vote for bicameral.

DELEGATE CHOATE: Well, I think it would anyway. Of course it would anyway, if it's in the document; but if we tell—why do we need to say that bicameral is contained in it? The fact that it is in the document—it appears to me that to state it again here is not necessary and would only add to the confusion of it. That's the point I make. We have a clear-cut choice for unicameral or bicameral down here in item 2, and it looks to me as though this is just superfluous to—and confusing. That's the point of it. I think it'll just add to the confusion.

CHAIRMAN GRAYBILL: Now, are you making your motion as a substitute motion? I've got one substitute motion, so I don't see how you can make another substitute motion. Oh, no, Mrs. Eck withdrew.

DELEGATE CHOATE: She withdrew, and hers was a substitute amendment to Mr. Habedank's motion.

CHAIRMAN GRAYBILL: All right, so you want to make a substitute motion anyway?

DELEGATE CHOATE: Well, yes, I do want to, Mr. Chairman, unless it is going to pose a legal problem if the—

CHAIRMAN GRAYBILL: Well, in the Chair's view, it's going to make the ballot illegal. Now, the Chair can come down on the floor and explain that if necessary, or maybe some of the other lawyers can, but—

DELEGATE CHOATE: No, that's all right. I'll take the Chair's word for it. If it is going to pose a legal problem, I'll withdraw the motion.

CHAIRMAN GRAYBILL: It's going to cause the court to hold that the first votes up there must necessarily be counted for bicameral, and then any votes in 2 are going to be added to that and it's going to be impossible for unicameral ever to get more than 51 percent—51 percent having been necessary at the first line—to ever get the thing adopted anyway. So you have effectively stopped any possibility of unicameral winning if you do that. Now, do you want to not make your motion?

DELEGATE CHOATE: I'll withdraw the motion.

CHAIRMAN GRAYBILL: All right, now, the issue is on Mr. Habedank's motion to add the words "of those voting at this election" into the box.

DELEGATE AASHEIM: Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Aasheim.

DELEGATE AASHEIM: I have another proposal here that I'd like to make as a substitute motion to Mr. Habedank's, and I think maybe it'll clarify it. It would read like this: "The proposed Constitution includes a bicameral, two-house, Legislature which becomes law unless the majority of those voting at this election vote for a unicameral Legislature in issue number 2 immediately below."

CHAIRMAN GRAYBILL: "—which becomes law unless—"

DELEGATE AASHEIM: "—which becomes law unless the majority of those voting at this election vote for a unicameral Legislature in issue 2 immediately below."

CHAIRMAN GRAYBILL: "—unless a majority of those voting at this election vote for"—just—I can't write faster—

DELEGATE AASHEIM: "—vote for a unicameral Legislature in issue 2 immediately below." Mr. Chairman, Mr. Schiltz—would Mr. Schiltz yield to a question?

CHAIRMAN GRAYBILL: Nobody's got the floor yet. Just a minute. I have to get it down or else I lose it and it never gets taken care of. All right, Mr. Aasheim has a substitute motion which would say: "The proposed Constitution includes a bicameral, two-houses, Legislature"—he takes that much, and then he adds—"which becomes law unless a majority of those voting at this election vote for a unicameral, two-house, Legislature in issue 2 below"—immediately below, if you want to put it in there. I don't know.

DELEGATE AASHEIM: Mr. Chairman, Mr. Chairman.

CHAIRMAN GRAYBILL: Now, Mr. Aasheim.

DELEGATE AASHEIM: Will Mr. Schiltz yield to a question?

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: (Inaudible)

DELEGATE AASHEIM: How does that sound for size?

DELEGATE SCHILTZ: Well, at first—my first impression was—it was all right, but it assumes that it's going to be law if number 1 is adopted, and, of course, number 1 might not be adopted. Now, the same might be said—it might be relieved by the word "proposed Constitution includes a bicameral". As we have it, I don't think we have the disability that you put in there by saying "which becomes law", because it won't become law unless number 1 is adopted.

DELEGATE AASHEIM: Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Aasheim.

DELEGATE AASHEIM: I'll leave it for the assembly to decide.

CHAIRMAN GRAYBILL: You'll what?

DELEGATE AASHEIM: I'll leave it for the assembly. I won't withdraw at this time.

CHAIRMAN GRAYBILL: You won't withdraw it?

DELEGATE AASHEIM: No.

CHAIRMAN GRAYBILL: Okay. It's not withdrawn, it's up for discussion.
Mr. Roeder.

DELEGATE ROEDER: Will Mr. Habedank lead—or yield to a question?

CHAIRMAN GRAYBILL: Mr. Habedank?

DELEGATE HABEDANK: Yes, I will.

DELEGATE ROEDER: Now, your proposal was, after the words "majority vote", to include "of those voting in this election".

DELEGATE HABEDANK: Yes, to correspond with our present Constitution.

DELEGATE ROEDER: I'm not sure I understood Mr. Schiltz's demurrer when he said the law is the law, but I think I see one problem that the addition of your words might bring about. Now, it is possible, I think, Mr. Habedank, that the provision that we're trying to surmount, that is in

Section 8 of Article XIX of the present Constitution, does not really necessarily go into effect for 2, 3 and 4. Now, I was not one of the lawyers in the Style Committee that the Chair referred to, but I have a notion that you could interpret Section 8, Article XIX, in such a way that it would not apply, so that if you had a simple majority on 2, 3 and 4 that was not an absolute majority of the total vote in number 1, that they would still be valid. If my interpretation is right, would not the inclusion of your language change that and remove that possibility?

DELEGATE HABEDANK: Are you asking me a question?

DELEGATE ROEDER: Uh-huh.

DELEGATE HABEDANK: Yes, Mr. Roeder, I feel sure it would; and originally when I approached this proposition, I approached it from the standpoint that if the Constitution started out—or the vote started out for the proposed Constitution, including the alternate proposals receiving the majority votes cast for each alternate below, that would meet the test of objections in the Supreme Court, but I really don't feel that it's fair to run that risk here, much as I would like to have it that way. I think it's better to clarify it the way I have it clarified and eliminate that possibility. It says straight-out what it is, and if the body doesn't want to go for it, then I think it's something else; but as I look at it, as the Style and Drafting Committee has proposed this ballot, your construction is possible and we can have the lawsuit that George Harper said we could have; and I think we should clarify it at this stage.

CHAIRMAN GRAYBILL: Mr. Burkhardt.

DELEGATE BURKHARDT: Mr. Chairman and fellow delegates, I would rise as a member of the Style and Drafting Committee and salute the legal work of the seven minds that have been wrestling with this and our Chairman and Gardner Cromwell and two other legal assistants in the group. They've come up with terse, lean language which does not spell out everything but which does make the issue crystal-clear for the voter. If he's going to make it on the unicameral, he's got to have a majority of voters coming in on 2-A, and the main purpose for its being there is for his information as he moves through the ballot, and there is no question. The legal suit may be filed, but it will lose. There is no question, I have been convinced by these many good legal minds. It's clear as the Style and Drafting has presented it.

CHAIRMAN GRAYBILL: Mr. Berg.

DELEGATE BERG: Mr. Chairman, I thought I might indicate, for the consideration of the body, the problem that was confronting Style. The suggestion that Mr. Roeder makes is that the language "approved by a majority of electors voting at this election" may only apply to an amendment of the 1889 Constitution and may not necessarily be applicable to the proposed Constitution. This has been the problem that Style lawyers have wrestled with during the last week, and we all, I think, are in agreement that we ought not to risk that possible interpretation. In other words, we felt that there was sufficient doubt as to whether it did or did not apply to the new Constitution that we ought to adopt it so that there was no question. I believe that accepting Mr. Habedank's amendment does, in a measure, also clarify and sustain this position that these amendments—or these alterations as to unicameral or bicameral, particularly as to unicameral, ought to be carried only if a majority of those voting at the election approve it. Therefore, I prefer Mr. Habedank's language because it is consistent with Section 8 of Article XIX and does resolve any possible conflict that the Style lawyers were confronted with. Thank you.

CHAIRMAN GRAYBILL: Mr. Aasheim.

DELEGATE AASHEIM: Mr. Chairman, I am going to withdraw my amendment in favor of the wording in the box as proposed by the Style and Drafting Committee.

CHAIRMAN GRAYBILL: All right, Mr. Aasheim's is withdrawn. Now, I wish you'd all listen. The Chair has a proposed amendment from Mr. Brown. I wish Mr. Schiltz and all of you experts would listen—see if it's any better. "The proposed Constitution will include a bicameral, two-house, Legislature unless a majority of those voting in this election choose a unicameral, one-house, Legislature in issue 2 immediately below." Now, it's very similar to the Committee's except it says the proposed Constitution will include a bicameral unless a majority of those voting, which is Mr. Aasheim's language, in this election—unless a majority of those voting in this election choose a unicameral, one-house, Legislature in issue 2 immediately below. It seems to change it from a slightly legalistic to a more personable statement, but I don't know whether it's any better.

What do you think, Mr. Schiltz?

DELEGATE SCHILTZ: That's satisfactory with me. It gets away from that trouble I had with Mr. Habedank's, as though you were saying if you vote for one of these things below and get a majority, that it carries.

CHAIRMAN GRAYBILL: What do you think, Mr. Habedank?

DELEGATE HABEDANK: I like it.

CHAIRMAN GRAYBILL: What do you think, Mr. Berg?

DELEGATE BERG: I would prefer that it use the language "replaced by" instead of "choose".

CHAIRMAN GRAYBILL: "—unless a majority of those voting in this election replaced by"—it can't. It's got to say "choose". It's the people who choose.

DELEGATE BERG: "—is replaced by."

CHAIRMAN GRAYBILL: Oh—bicameral unless a majority of those voting in this election choose a unicameral Legislature"—I don't see where you can put in "replaced by".

DELEGATE BURKHARDT: Do you mean "vote for", rather than "choose"—to vote for, rather than choose?

CHAIRMAN GRAYBILL: I'll read mine and then you can read it back: "The proposed"—or I'll read Brown's: "The proposed committee—or the proposed Constitution will include a bicameral, two-house, Legislature unless a majority of those voting in the election choose a unicameral, one-house, Legislature in issue 2 immediately below." Now, we could say "unless a majority of those voting in the Legislature vote for a unicameral", but choose is—probably has the advantage of being one letter shorter.

Mr. Berg.

DELEGATE BERG: I yield.

CHAIRMAN GRAYBILL: Mr. Brown, you'd better get this in. Do you want to make a motion?

DELEGATE BROWN: Yes, I'll move, Mr. President, but I think maybe instead of "choose", "vote for" would be better, because we do say "For" in issue 2.

CHAIRMAN GRAYBILL: All right.

DELEGATE BROWN: So, with that amendment, I will move that as—I don't know what I'm moving—a substitute motion? Or a motion? Or amendment?

CHAIRMAN GRAYBILL: Well, just a minute and I'll find out. Mr. Habedank, are you going to withdraw or are you going to stay in?

DELEGATE HABEDANK: No, I'll withdraw mine in favor of Mr. Brown's, with that change.

CHAIRMAN GRAYBILL: Mr. Habedank's is withdrawn. You're just making a motion, Mr. Brown. You're making a motion that the language in the box be as follows—right? "The proposed Constitution will include a bicameral, two-house, Legislature unless a majority of those voting in this election vote for a unicameral, one-house, Legislature in issue 2 immediately below."

DELEGATE BROWN: I will so move.

CHAIRMAN GRAYBILL: All right, is there discussion of Mr. Brown's language?

Mr. Martin.

DELEGATE MARTIN: Mr. Chairman, I support the amendment. We're right back to what we adopted yesterday in Mr. Davis' motion.

CHAIRMAN GRAYBILL: Mr. Heliker.

DELEGATE HELIKER: Mr. Chairman, all these lawyers and political scientists have got me thoroughly confused. Would Mr. Schiltz yield to a question?

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Yes, I yield.

DELEGATE HELIKER: Just exactly what is the issue? What is it you're trying—what is the problem that you're trying to solve here?

DELEGATE SCHILTZ: With the box?

DELEGATE HELIKER: With this amendment of Mr. Brown's.

DELEGATE SCHILTZ: Well, I think you should ask Mr. Brown to yield. I can tell you what—

DELEGATE HELIKER: You all seem to be agreeing on it.

DELEGATE SCHILTZ: Well, I asked if you meant the box. I'll start with the box. The purpose of the box is to warn people that there's an opportunity to replace the bicameral Legislature by voting in Number 2 below. Now, so far as I'm concerned, this language was all right. I sense that somebody has some disturbance about whether or not we have to put a further warning in there that they must carry the thing below by 50 percent of the vote plus one vote, so I don't have any trouble with this language if they want to do it. It's much better than what we had up till now, and so that's why I waved my hand and said it was all right.

DELEGATE HELIKER: Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Heliker.

DELEGATE HELIKER: Will Mr. Brown yield?

CHAIRMAN GRAYBILL: Mr. Brown?

DELEGATE BROWN: I will yield.

DELEGATE HELIKER: Would you answer my—the question which Mr. Schiltz didn't answer?

DELEGATE BROWN: Well, I don't know if I can. It seemed to be the sense of the people here that if you had 50 plus one vote for the Constitution but below there you had 48 percent for unicameral and 32 percent for bicameral, then the unicameral would not carry; but the people of Montana would be then thoroughly confused and say, "We voted for unicameral, why didn't we get it?" So we want to put right on the ballot—we can show them the ballot and say, "Here, it said 'a majority of those voting'"—so the people won't misunderstand. In other words, I'm afraid if you just say if a majority vote for unicameral, they will think they have carried unicameral when, in fact, they haven't.

DELEGATE HELIKER: Mr. Chairman.

CHAIRMAN GRAYBILL: Yes, sir.

DELEGATE HELIKER: Now, there was something else involved in this discussion somewhere along the line to the effect that, if I understood it correctly, that if we did not include Mr. Brown's or Mr. Habedank's language, then that there might be an interpretation that the vote on part 2 of the ballot was an amendment to the new Constitution and thus not subject to the requirement of the old Constitution in Article XIX. Now, may I ask the Chair to give us his explanation?

CHAIRMAN GRAYBILL: Well, the issue you raise was partly discussed by me and partly discussed by Mrs. Eck or Mrs. Bugbee or someone—Mr. Berg—but the point is that if you put nothing, if you put no box there—you see, we have now put the bicameral article in the Constitution. You're with us there? That's what we did yesterday.

DELEGATE HELIKER: Right.

CHAIRMAN GRAYBILL: All right, now; having put it in there, if you put no box at all there, I think you force any court to say that when people vote for that Constitution, all those votes must really be counted for bicameral. And then if unicameral—you know, we can't even pass the Constitution unless we've got 51 percent, so automatically bicameral wins, because it had to have 51 percent or we have no Constitution anyway, and the vote on 2 becomes meaningless. In order to make the vote on 2 meaningful, you have to warn the public that it's possible to replace the one you put in with the one you are going to vote on below, so that's the purpose of the box. Now,—

DELEGATE HELIKER: Doesn't the box, as originally written, do that?

CHAIRMAN GRAYBILL: The box, as originally written, does that except—it does that in Mr. Schiltz's and my view, because it doesn't make any difference what we say, as long as we warn them the court is not going to let unicameral replace bicameral unless it has an absolute majority because of the Constitution and the Enabling Act.

DELEGATE HELIKER: Well, if we're all agreed on that, then I—

CHAIRMAN GRAYBILL: But—wait a minute—wait a minute—I get to answer. But the question was raised by Mr. Harper, and I think legitimately, that when you say "unless replaced by a majority vote", without describing the majority vote, you could have a different majority vote on 2 than you had on 1; and as Mr. Brown just answered to you, we'd be in a funny position with the public if a majority—that is, more than half of those voting on only number 2 supported unicameral, but less than a majority of all the people voting on the ballot did, because then the people would think—since unicameral got a few more than bicameral, they'd think that unicameral won, but in fact it hadn't won because of the rule, so you have to state that rule. Now, Mr. Brown has stated the rule—in the opinion of most of us here now, somewhat more skillfully than we originally stated it—by saying that the proposed Constitution will include this bicameral Legislature—so now they're all aware of that—unless a majority of those voting in the election—that's of all the people voting and not just on number 2—a majority of those voting in the election vote for a unicameral Legislature in issue 2 below. He's clearly pointed out that you got to have a majority, on number 2, of all of those in the election, not just on issue number 2, and in that sense his language is somewhat better than the original language in the box, in the opinion of those who have spoken so far.

DELEGATE HELIKER: Mr. Chairman.

CHAIRMAN GRAYBILL: Yes, sir.

DELEGATE HELIKER: The problem is to—is one of informing the people, not of clearing up a legal question, is that right?

CHAIRMAN GRAYBILL: I think that's right, but it never hurts to inform—to do them both at the same time.

DELEGATE HELIKER: Well, we were told first that the law would be the law, regardless of whether—

CHAIRMAN GRAYBILL: What you're told is that if unicameral gets 50 percent less one, there is no way that any court or anybody else can put it into effect; so it doesn't matter how many votes it got—if it got all the votes in number 2 and nobody voted for bicameral, it wouldn't do unicameral any good unless it got 50 percent plus one.

DELEGATE HELIKER: Yes, and there is no question about that, regardless of what the wording is in the box?

CHAIRMAN GRAYBILL: Well, there's no question about that in the minds of the lawyers, because of the wording of the Enabling Act; but there is in Mr. Roeder's mind, and he may be entirely right; but the Enabling Act, which I read to you yesterday, does say, "must receive a majority"—the proposals—in the plural—must receive a majority of those voting at the election. Now, whatever that means. If that means all, it means all of it; if it means only the first, it means only the first. But since "proposals" is plural in the Enabling Act and since the Constitution, which I also read to you yesterday, says "a majority of those voting for the amendment, change, ratification"—there's about four words there and it's—and they're all modified by majority. Does that help you, Mr. Heliker?

DELEGATE HELIKER: Well, I'd like to ask Mr. Berg a question if I may.

CHAIRMAN GRAYBILL: Okay. Mr. Berg, you're up.

DELEGATE HELIKER: I want to get several legal opinions on this. I think it's a good policy in this Convention. Mr. Berg—

DELEGATE BERG: I yield.

DELEGATE HELIKER: Do I now understand correctly that there is no legal question to be cleared up here, that the law will be the same regardless of how you word this, whether you adopt Mr. Brown's amendment or not?

DELEGATE BERG: That would be my opinion, yes.

DELEGATE HELIKER: So, all we're doing is to inform the people.

DELEGATE BERG: We are informing the people by the ballot that it requires a majority of those voting at the election to carry unicameral.

DELEGATE HELIKER: Mr. Roeder's remarks, in your opinion, have no validity?

DELEGATE BERG: In my opinion, the—yes, I would agree with that.

DELEGATE HELIKER: All right. I'm more or less satisfied.

CHAIRMAN GRAYBILL: All right, now, the issue is on Mr. Brown's amendatory language for the box, and we'll vote on that after discussion, if anyone wants to discuss Mr. Brown's language further.

Mrs. Bates.

DELEGATE BATES: Mr. Chairman, I would like to make a suggestion here because I think we are discussing the unicameral-bicameral only in this box, whereas, we also have two other alternate issues. I would like to suggest to this group something on—like this: "The alternate issues below, 2, 3 and 4, will only be adopted if the prevailing vote is passed by a majority vote of all voters voting in this election."

CHAIRMAN GRAYBILL: Well, now, Mrs.—

DELEGATE BATES: Would that be possible?

CHAIRMAN GRAYBILL: It would be possible to say that, but that isn't necessarily a true statement. Now, the problem is—and I'm sure Mr. Schiltz and some of us can clear you up—the problem does not arise in the gambling issue or in the death penalty issue because the language does not have to be changed in the Constitution if you fail to get a 50 plus one percent vote.

DELEGATE BATES: Well, then, it's agreed that these two issues will be in the Constitution as they are now, then, and that it—that really—

CHAIRMAN GRAYBILL: Well, now, we have to decide yet, and I've got three amendments up here on how the gambling wants to appear in there; but the point is that some language will appear in the Constitution on gambling and it doesn't have to be changed, no matter whether the one outside wins or loses, because it's a matter of just tacking on another phrase or taking out a phrase. But in the bicameral-unicameral, you really have to substitute one for the other. That's why we have to have the box and the language.

DELEGATE BATES: Okay.

CHAIRMAN GRAYBILL: Mr. Jacobsen.

DELEGATE JACOBSEN: Mr. President, Mr. Brown's move seems to me to be a good one, but now, what is the need for having box 2-B, then, when we have already explained this and where we know that if the—we vote for the proposed Constitution, it already includes the bicameral, why do we have to have any more than just one box below there, for a unicameral, one-house, Legislature?

CHAIRMAN GRAYBILL: Well, you don't—you really don't, Mr. Jacobsen, to get a vote, but you—but this body has decided a few minutes ago that they preferred putting bicameral-unicameral next to each other, rather than putting unicameral, Yes-No. They just felt the other form was fairer and more clear to the voter, and we've made that decision.

DELEGATE JACOBSEN: Then they would be voting, if they voted for the Constitution, it—already voting for bicameral. If they placed a vote in box 2 below, they'd be voting for bicameral again. Now, would that be the same as two votes for that bicameral?

CHAIRMAN GRAYBILL: No, no. And it wouldn't matter whether bicameral got a majority or not below, it's already—if it—if we get a Constitution above; but unicameral, as the box clearly explains, cannot win unless it gets a majority.

DELEGATE JACOBSEN: Then this is an unfair advantage for the bicameral, because we're—got them in the box up there and we've got them in the Constitution, we've got them down there a third time.

CHAIRMAN GRAYBILL: Well, you're right to this extent, that when we decided to put bicameral in instead of unicameral, there is a sense in which it gets an advantage. Now whether that's a great advantage or not, I don't know. If we'd turned around and put unicameral in, the reverse would have been the case. And if we put neither in, then we're up against the Blaylock problem yesterday, that if we don't get 51 percent on one or the other, we have no Legislative Article; so you just can't have your cake and eat it, too. You've got to take some problem in one way or the other, but we just decided that it would be fairer to put unicameral and bicameral side by side, and the public gets a clear shot at which one they want, rather than just putting unicameral, Yes-No. Now, that's what we did when we voted for Mr.—well, when we voted for Mr. Driscoll, right. When we voted for Mr. Davis, we put bicameral in. That's the first major decision. The second major decision is to put bicameral and unicameral together on the outside instead of just unicameral.

DELEGATE JACOBSEN: Then we could reconsider and take 2-B out after we voted on the box language, couldn't we?

CHAIRMAN GRAYBILL: I'm sure we could. We could do it by suspending the rules tomorrow. (Laughter) Right; we could, though. You're right.

Now, Mr. Foster.

DELEGATE FOSTER: Mr. Chairman, fellow delegates. One point I think we've made beyond a reasonable doubt is that no matter what we put in the box, the voters are not going to understand the situation—because after 2 days, we can't understand the situation clearly. And, secondly, I think that the original language of the committee was very concise, it did the job that was necessary, they discussed it adequately at length, and I support the original wording in the box of the majority of the committee. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: All right. Now, the issue is on Mr. Brown's language.

Mr. Hanson.

DELEGATE ROD HANSON: Mr. Chairman, I wonder if Delegate Sparks would yield to a question, please? (Laughter)

CHAIRMAN GRAYBILL: Mrs. Sparks, will you yield?

DELEGATE SPARKS: (Indicating no. No audible response)

DELEGATE ROD HANSON: Thank you, Mr. President. (Laughter)

CHAIRMAN GRAYBILL: Mrs. Sparks says she will not yield on this particular question.

Mr. Swanberg.

DELEGATE SWANBERG: Mr. President, there's a related problem here. It's not precisely on the point, but now that we have items 2-A and 2-B, where they have a choice between unicameral and bicameral, I'm wondering if that can stand alone in case the Constitution, up above, is defeated. That gets back to the philosophy of our approach here, whether we're going to submit the Constitution as a whole or whether we're going to allow bits and pieces of it to pass; and as it stands there, it would be possible for a voter to look at the ballot and say, "Well, I'm against the Constitution but I sure am in favor of a unicameral Legislature, so I'm going to vote for the unicameral Legislature and leave the upper part blank." I think we have to take this into account somewhere in that box, if we want to do it that way. Now, there's two schools of thought here. One is that we were sent here to write a Constitution and nothing else, and we're going to submit a Constitution and nothing else, with a couple of alternates. The other school of thought is, no, we can amend the Constitution at—that we now have with a Legislative Article. If you want to do the latter, then I would suggest that items 2-A and 2-B—the wording be changed; instead of saying, "For a unicameral, one-house, Legislature", it read, "For a unicameral, one-house, Legislative Article", so that if it does pass, why, we have the article to go on.

CHAIRMAN GRAYBILL: I think, Mr. Swanberg, you raise a good point, and I think we should take it up, but I don't think it's material to the issue.

Mr. Johnson, do you want to discuss Mr. Brown's language?

DELEGATE JOHNSON: Mr. Chairman, I would like to discuss his language to this extent. I have a—I'd like to dress it up a little bit in an amendment to his language. May I do that? Am I in order?

CHAIRMAN GRAYBILL: Well, I suppose you are. Do you want to shoot, and we'll see what you say.

DELEGATE JOHNSON: In the box, put a period after "Legislature" in the second line. Then the following language: "If you wish to vote for a unicameral Legislature, mark "X" in 2-A below."

CHAIRMAN GRAYBILL: Well, now, the Chair will allow that if you insist, but you haven't explained the problem to them and you haven't solved the problem by saying that.

DELEGATE JOHNSON: I think that this is very, very simple. Anybody can understand this language. It says that there—the proposed Constitution includes a bicameral Legislature and if you wish—but if you wish to vote for a unicameral Legislature, mark "X" in 2-A below.

CHAIRMAN GRAYBILL: All right, then does that mean that we get both a bicameral and a unicameral if they both pass? (Laughter)

DELEGATE JOHNSON: Well, it looked awful simple to me. I guess—(Laughter)

CHAIRMAN GRAYBILL: That's ex post facto. (Laughter) Now, Torrey, I think you've really got a problem, unless you go with Mr. Brown here, on your language. But if you want me to put it, I will.

DELEGATE JOHNSON: Mr. Chairman, I'll withdraw, and let's go after Mr. Brown's. Thank you.

CHAIRMAN GRAYBILL: Mr. Harper.

DELEGATE HARPER: Yes. I'm afraid I helped to start this by saying that that wasn't clear to the voters, and I think Mr. Brown's does make it much clearer. On the other hand, it says that we are now, as a Constitutional Convention, playing Supreme Court and making the decision on this thing that we have said was really, maybe, up in the air, some time ago. I wish you or some lawyer here would say whether or not you are absolutely sure, following up what Mr. Heliker said, that there is no possibility that the Supreme Court could decide on a different interpretation of that old language in the 1889 Constitution. Someway, I hope we could leave that open. What we have done is we have moved from an assumption on which we started, that we could have an alternate on the ballot and get a fair vote from the people, we came—that we moved all through the Convention on that assumption, most of us. We could easily have declared our intent as a Constitutional Convention that this is what we meant—that a majority of the voters in the election approve the Constitution and that a majority of those voting on each issue would therefore carry the one article or the other into the Constitution. I think we could have written that into our Constitution, taken that as our stand, declared that as our intent, and had a pretty good chance of interpreting that on a real close vote, let's say, in the Supreme Court. Now, then, the lawyers have told us that they're sure that is not the interpretation. All I want to do is to put in the record that all of us are not sure that that is the only—that their interpretation is the only possible interpretation of this law. They have not asked for an attorney general's ruling. They have not asked for a Supreme Court declaratory judgment of any kind, though when the council that was preparing for the Constitutional Convention came to nub issues like this, they were all in agreement—asked the Supreme Court on three major issues and got a contrary view on every one of the three. We have a record of that in the material that was put out to us ahead of time. And I just simply wanted to leave—if there is any way to leave a little opening wedge for a contest, I'd like for this little speech in the record to be it.

CHAIRMAN GRAYBILL: Now, the Chair would like to observe that we do have to print this Constitution before we can sign it, and we have a lot more work to do. Now, I'm going to let you talk, but we'll stay here tonight and finish this, regardless, or we'll stay here tonight and fail to finish it. So you really ought to decide whether or not you're going to go along with the group—except on major issues—pretty soon, and then you ought to stick with them.

Mr. Kelleher, do you feel that Mr. Harper needs an answer?

DELEGATE KELLEHER: There is one thing that—and I go to—that has been bothering me from the beginning of this week, and that is Section 9 of that article—of Article XIX—and that's why I'm wondering about this language that Bruce has proposed. Let us assume that the Supreme Court decides that we have been called under Article VIII—and I ask the lawyers to seriously consider this—the last few sentences of Article VIII—and our revision. Our new Constitution, I assume, is a revision or an alteration that must be approved at an election—"and unless so submitted and approved by a majority of the electors voting at the election". Now, let us assume, going down to Section 9, the fifth line from the bottom of the present Constitution, that Proposal Number 2 for a unicameral Legislature or for a bicameral Legislature is interpreted by the Supreme Court as being an amendment, then we clearly fall into Section 9 of Article XIX, which says: "Said amendment or amendments shall be"—and this would include the gambling and the death penalty—"shall be submitted to the qualified voters"—electors—"of the state for their approval or rejection and such as are approved by a majority of those voting thereon"—now, that's similar to the North Dakota Constitution and the way they're working—operating under—"shall become part of the Constitution". Therefore, if proposals 2, 3 and 4 are considered as being under Section 9, then all they need is a majority of those voting on those propositions; but if we put this language in, then we are locking ourselves out of having those three proposals be deemed as amendments.

CHAIRMAN GRAYBILL: Now, the Chair feels it necessary to comment on what Mr. Kelleher has just said, for the record and for everybody's edification. The Section 9 to which Mr. Kelleher refers talks about amendments to this Constitution that have been proposed in either house of the Legislative Assembly, and it has nothing—it does have the language he says in it; and as Mr. McDonough said yesterday, the—or someone—I think it was McDonough, maybe Holland—that the fellows that wrote this Constitution surely didn't help us very much because they weren't very careful, but they did say that

Section 9 applies to amendments which may be prepared—proposed in either house of the Legislative Assembly; and I don't see how there's any way that the court can construe what we've done here as that. Now, they might construe it that way, but the Legislature is generally construed as not having the right to delegate its authority to make laws, and that's the only way you could ever get through Section 9 down to that language. On the other hand, there's a whole section—Section 8—right above it in the Constitution, which sets up this Constitutional Convention business; and it says: "and unless so submitted and approved by a majority of electors voting at the election"—it's a tougher test—"no such revision, alteration or amendment"—and when it says "no such"—which, of course, we know is a bad word—"revision, alteration or amendment", it seems to most of us lawyers that it is very difficult to argue to the Supreme Court Mr. Harper's position that if we have a majority on one thing, then we only have to have a plurality on the other. Now, I would have liked to suggest that—and I did suggest it to the Style and Drafting Committee—but it's a bootstraps operation wherein you have to say that we changed the Constitution to a plurality by putting it into one of our articles, and most of the lawyers believe that we are not safe in doing that. But, it's—it could be done, and then it would go to the Supreme Court for definition and they might then void our election. Now, to—it's possible to do it those ways and it's possible to do it without a majority voting on it, but you're courting a Supreme Court case. The point of the majority proposal here is, and especially with Mr. Brown's amendment, that we have a way of doing it that doesn't court a Supreme Court case nearly as clearly, so what we're trying to do is find the best way to do it and most likely avoid a Supreme Court case

Mr. Aronow.

DELEGATE ARONOW: Mr. Chairman, may I also offer this suggestion, both to Mr. Harper and to Mr. Kelleher. I see no way that these side proposals can be considered amendments, because they're not amendments to the present Constitution. We have not adopted the new Constitution, so you can't amend that which does not exist. The vote of this body was to make them alternate proposals for portions of the submitted Constitution, so I see no way—well, I shouldn't say quite no way, because the Supreme Court can do anything—and I've seen in the past where they've done most anything—but it would seem most unlikely and unreasonable to believe that they would say that either proposal 2, 3 or 4 is an amendment. Thank you.

CHAIRMAN GRAYBILL: Now, the issue is on Mr. Brown's language for the box, which is: "The proposed Constitution will include a bicameral, two-house, Legislature unless a majority of those voting in the election vote for a unicameral, one-house, Legislature in issue number 2 immediately below." The Chair will rule from now on that Mr. Swanberg's point, which is an interesting one and might be taken up, is immaterial to this particular little vote; and, so, stay on Mr. Brown's language if you're going to discuss it.

Mr. Burkhardt.

DELEGATE BURKHARDT: Mr. Chairman, I wonder if Mr. Schiltz would yield to a question.

DELEGATE SCHILTZ: I yield.

DELEGATE BURKHARDT: Jack, I'm wondering whether you were interpreting our Secretary of State's statement about what votes were going to count as the total number in this election. Is that endangered by the language of this box as now amended? In other words, he was going to say that the total number cast would be those in Section 1, issue 1, for and against the Constitution.

DELEGATE SCHILTZ: I don't think that is involved here. It says "in this election", which, so far as I'm concerned, means this election for the whole ballot.

DELEGATE BURKHARDT: Well, who's going to interpret that eventually?

DELEGATE SCHILTZ: Well, that's—on the side, this language would be apropos whether—whatever number were chosen.

DELEGATE BURKHARDT: Fine.

CHAIRMAN GRAYBILL: Very well, the issue is on Mr. Brown's language. We'll have a roll call vote. So many as in favor of Brown's language, vote Aye; so many as are opposed, vote No. Has every delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Cast the ballot.

Aasheim	Absent
Anderson, J.H.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Absent
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Nay
Blend	Aye
Bowman	Aye
Brazier	Absent
Brown	Aye
Bugbee	Aye
Burkhardt	Nay
Cain	Aye
Campbell	Excused
Cate	Absent
Champoux	Absent
Choate	Absent
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Aye
Driscoll	Aye
Drum	Absent
Eck	Nay
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Absent
Foster	Nay
Furlong	Aye
Garlington	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Absent
Harlow	Aye
Harper	Nay
Harrington	Aye
Heliker	Nay
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Nay
Leuthold	Aye
Loendorf	Aye
Lorello	Aye
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Absent
McNeil	Aye
Melvin	Aye
Monroe	Absent
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Nay
Roeder	Nay
Rollins	Aye
Romney	Nay
Rygg	Aye
Scanlin	Aye
Schiltz	Nay
Siderius	Nay
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Nay
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Absent
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye
Mr. Chairman	Aye

CLERK HANSON: Mr. Chairman, 73 delegates voting Aye, 13 voting No.

CHAIRMAN GRAYBILL: 73 voting Aye and 13 voting No, Mr. Brown's language has been adopted.

Now, Mr. Habedank, do you want this other amendment put? Or do you care about that?

DELEGATE HABEDANK: Yes, Mr. President. I feel that when we're talking about a unicameral, it should be called to the attention of the public that they are not voting for unicameral permanently but only until 1980. However, I would be willing to have that dressed up any way Style and Drafting does it. I don't feel this committee needs to sit here all afternoon and do it.

CHAIRMAN GRAYBILL: Mr. Schiltz and members of the body, Mr. Habedank has an amendment: "I move that the ballot be amended by Style and Drafting so as to show that the unicameral Legislature will be in effect only until 1980, when the question of continuing of the unicameral Legislature or reverting to a bicameral Legislature will be referred to the electors." This is a matter of explaining to the voters what's in the Constitution in terms of unicameral. I'll allow Mr. Habedank's amendment, and we can discuss it.

Mr. Schiltz.

DELEGATE SCHILTZ: Well, Mr. Chairman, the avowed object of the Style and Drafting Committee is apparent from the one-page ballot on 8 x 11 paper that you have before you—is to make the ballot as simple as possible. Now, I assume that we could put half of the debates in here, as I indicated a little while ago. We could put everything I said yesterday up in front of the chamber in here, so that there could be no question in anyone's mind why it was necessary to put this caveat in here. We could do all that. Now, in addition, though, to what we have provided, the Convention, prior to April 6th, will send a complete Constitution to every living soul in Montana who's registered to vote, and if they aren't intelligent enough to read that and if they don't read the newspapers, I can see no reason in the world why we must put in everything that everybody can possibly think of that a voter might have some disability on or some question on or need some information on. The list is endless, absolutely endless, and I resist the motion.

CHAIRMAN GRAYBILL: The Chair would point out that the official ballot contains a sentence at the top: "The full text of the proposed Constitution and separate propositions is available for inspection at your polling place." Is there discussion?

Mrs. Reichert.

DELEGATE REICHERT: In principle, I agree with what Delegate Schiltz has said. I think the less complicated the ballot is, the better; but in this particular case, I think this issue is critical, because we are not only voting for a unicameral—if we vote for it, we're also voting for reverting back to a bicameral in 1980; and I think that's the single most important feature of this unicameral proposition; and I would hope that somehow the Style and Drafting Committee, through the genius of its members, could find some way to inform the people that this is for a trial period and that automatically we could revert back to a bicameral.

CHAIRMAN GRAYBILL: Very well, the issue is on Mr. Habedank's amendment. Does anyone want a roll call vote? Mr. Habedank wants a roll call vote. So many as shall be in favor of Mr. Habedank's amendment that we put the fact that it—that the unicameral will be subject to a vote in 1980 on the ballot, vote Aye; and so many as shall be opposed to that, vote No. Has every delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Take the ballot.

Aasheim	Nay
Anderson, J.H.	Nay
Anderson, O.	Aye
Arbanas	Nay
Arness	Absent
Aronow	Nay
Artz	Nay
Ask	Nay
Babcock	Nay
Barnard	Nay
Bates	Nay
Belcher	Absent
Berg	Nay
Berthelson	Nay
Blaylock	Nay
Blend	Nay
Bowman	Aye
Brazier	Aye
Brown	Nay
Bugbee	Aye
Burkhardt	Nay
Cain	Nay
Campbell	Excused
Cate	Absent

Champoux	Absent
Choate	Absent
Conover	Nay
Cross	Nay
Dahood	Nay
Davis	Nay
Delaney	Nay
Driscoll	Aye
Drum	Absent
Eck	Absent
Erdmann	Aye
Eskildsen	Absent
Etchart	Absent
Felt	Absent
Foster	Nay
Furlong	Nay
Garlington	Nay
Gysler	Nay
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Absent
Harlow	Aye
Harper	Aye
Harrington	Nay
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Absent
Johnson	Nay
Joyce	Nay
Kamhoot	Nay
Kelleher	Nay
Leuthold	Nay
Loendorf	Absent
Lorello	Nay
Mahoney	Nay
Mansfield	Nay
Martin	Nay
McCarvel	Aye
McDonough	Absent
McKeon	Absent
McNeil	Nay
Melvin	Nay
Monroe	Aye
Murray	Nay
Noble	Nay
Nutting	Nay
Payne	Nay
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Nay
Rollins	Nay
Romney	Nay
Rygg	Nay
Scanlin	Nay
Schiltz	Nay
Siderius	Nay
Simon	Nay
Skari	Aye
Sparks	Absent
Speer	Aye
Studer	Nay
Sullivan	Nay
Swanberg	Nay
Toole	Absent
Van Buskirk	Absent
Vermillion	Absent
Wagner	Nay
Ward	Nay
Warden	Nay
Wilson	Nay
Woodmansey	Nay
Mr. Chairman	Nay

CLERK HANSON: Mr. Chairman, 21 delegates voting Aye, 58 voting No.

CHAIRMAN GRAYBILL: 21 having voted Aye and 58 No, the motion fails. Now, members of the body, I have before me an amendment to proposed—to Section 3 by Mr. Harper.

Mr. Harper, do you want me to read your amendment or not?

DELEGATE HARPER: Yes, please.

CHAIRMAN GRAYBILL: Mr. Clerk, do you want to read it.

CLERK HANSON: "Mr. Chairman, I move to amend Section 3 of the ballot by reversing the order of Section 9 of the General Government number 3 and putting the prohibition against allowing the Legislature into the body of the Constitution. Signed: Harper."

CHAIRMAN GRAYBILL: All right, now perhaps the Chair can explain this. Mr. Harper has proposed an amendment which would have the effect of putting a different section into the Constitution; and, Mrs. Bates, this explains why on this issue it's different than the bicameral-unicameral. At the present time, the Style and Drafting Committee has proposed putting into the Constitution the phrase—I don't know the whole words, but the substance of it is there shall be no gambling, and then you vote on 3, the exception—except if 51 percent vote for 3-A, for allowing the people or the Legislature to authorize it, then we put "except as allowed by the people and the Legislature" back in. If, of course, more vote on—if not more than 50 percent vote on 3-A, why, then nothing happens and the Constitution continues to state—continues to say there shall be no gambling. Now, Mr. Harper proposes to say in the Constitution, "There shall be no gambling except as authorized by the Legislature and the people under referendum", and then he proposes to change 3 so that it says: For taking away the Legislature and the people's right to do this or Against taking it away. That's the only sense—is that right, Mr. Harper?

DELEGATE HARPER: Mr. Chairman, if—No, I understood exactly opposite. I understood what they have here to mean that what is written into the Constitution would be the allowance of the—authorizing the Legislature to change the prohibition on gambling and that I was moving to reverse—to put it the same way it is now in the Constitution.

CHAIRMAN GRAYBILL: All right. Well, then, what you—now that I've explained it, I am right, am I not, Mr. Schiltz, that the Constitution would say For—would say there shall be no gambling, and then the exception would write on the addition? Is that right?

DELEGATE SCHILTZ: No, the way the committee voted on it is as Mr. Harper says, that the longer Section 9, which you'll find on page 13 of the Final Report, would have the first one in it; and then the vote would be for continuing that allowance or against continuing that allowance.

CHAIRMAN GRAYBILL: I see. So, in other words, the Constitution will now say there shall be no gambling except if allowed by the Legislature and the people.

DELEGATE SCHILTZ: Yes. And Mr. Harper is asking that that be reversed.

CHAIRMAN GRAYBILL: I see. So, Mr. Harper's amendment is to say what I said first—namely, that the Constitution should simply say there shall be no gambling—and then the vote on 3 would add "except as authorized by the people" if a majority voted for it and would fail to add that if a majority didn't vote for it. Is that right, Mr. Harper?

DELEGATE HARPER: Yes, it is. I had a moment of hope there that I had misinterpreted this or misread it. Let me tell the body why I think this ought to be done. Several unicameralists rose during the vote yesterday to say, "We are unicameralists, but we think the bicameral is the traditional." It has been in the Constitution that way, and the people who want to make the radical change should be forced on the ballot to come in with enough people to change it; and on the basis of tradition, that sounded like sense to some people, even who said they were unicameralists, and they went along with it. My assumption was that the Style and Drafting Committee would do the same thing with this Section 9, that it would continue what was in the present Constitution and then the people who wanted to change that now to authorize the Legislature or by initiative or referendum of the people to do it would, in a sense, have the burden of proof put on them as to why we should make the change. On that basis and on the basis of the reason for our choosing to have an alternative in the first place, I think we ought now to support this motion I have made to just turn the Style and Drafting Committee's proposal right around. Let me go over this one more time, because I think this is an essential point. In fact, this would be a point that I, personally, would have to ponder quite a bit. Many people in this state—though we may not have heard from all of them—many people in this state believe that the prohibition against gambling that our state has enjoyed is one of the most important things they could have. Everything else being equal, many of them would prefer to keep the old Constitution if that is the only way they can be assured that they can vote against gambling. Now, they will be aware of the kind of figuring that was done, and I think correctly so, by Mr. Heliker. They will be aware of our discussion of this first issue of how much chance an alternate has, and they will—there will be many among them who will say to these groups, "The only possible way you can be sure—you can be safe on the gambling issue is now to vote against the new Constitution." This is what I hoped and prayed would not come to the body of the Constitution this way. For this reason and for the reason that I think this traditional part should be maintained and those who want now to change it should have to carry on the alternate, I've made this amendment; and I hope it will be sustained by the body.

CHAIRMAN GRAYBILL: Mr. Choate.

DELEGATE CHOATE: I rise to resist the amendment by Delegate Harper. I think the vote was pretty clear the other day on this issue, and I would, as a substitute motion, move that we adopt the majority—or the committee proposal from Style and Drafting, for the obvious reasons that the vote on the issue is fairly clear-cut. I wouldn't object to seeing both propositions put as side issues on the ballot to be voted on freely by the majority of the people and let the will of the people decide the issue. I would prefer that the proposal to only authorize gambling by legislation be placed in the Constitution with a side issue to retain the present prohibition; but in either event, we should either allow a complete free choice by placing both issues on the side for selection for and against or else leave it as Style and Drafting has recommended. Thank you.

CHAIRMAN GRAYBILL: Now, Mr. Choate, I can't allow you to make a substitute motion back to the motion that's just been amended, because the way to do that is to defeat Mr. Harper's amendment. We already have the Style and Drafting moved, so your substitute motion was what was amended.

DELEGATE CHOATE: Okay.

CHAIRMAN GRAYBILL: Do you follow me? But, in other words, you can defeat the Harper motion. There's no use saying—reversing it. He's already reversed it once.

Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, I think everyone will recall that yesterday we had a vote on Mr. Davis' motion that unicameral or bicameral—in that case, bicameral—be put in the body of the Constitution. Now, when I first began to explain the ballot, I said it was implicit in the ballot we were proposing that we would have this one section of the gambling in the Constitution, but I don't think there's been a motion and a vote. I was just suggesting to Mr. Harper that he move—rather than reverse this on the ballot, that he move that one of them belong—be put in the Constitution and the other be placed—or a vote on the other be placed as an alternate.

CHAIRMAN GRAYBILL: Well, Mr. Schiltz, you lost me. He has moved that the other one be placed in instead of the one that's in there. Is there anything wrong with that?

DELEGATE SCHILTZ: Well, I guess not. I just understood him to say that he moved that this Section 3 be reversed, and what I was concerned about is that—if he made that motion, that's fine.

CHAIRMAN GRAYBILL: The Chair understands the sense of the motion to be that he would put the language in the Constitution to say there shall be no gambling, and then Style and Drafting would have to restyle 3 so that the exception was placed outside.

Now, Mr. Kamhoot, I'm aware you have another amendment here, and it doesn't seem to me that it reaches the same point as this. It's a matter of explanation, isn't it? I don't see that it reaches the point that Mr. Harper and Mr. Choate are talking about.

DELEGATE KAMHOOT: Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Kamhoot.

DELEGATE KAMHOOT: I, I believe, like the language of mine a little better—

CHAIRMAN GRAYBILL: All right, we'll put yours—

DELEGATE KAMHOOT: —I think Delegate Harper's—

CHAIRMAN GRAYBILL: —we'll put yours—

DELEGATE KAMHOOT: —is going for the same thing.

CHAIRMAN GRAYBILL: —we'll put yours as a substitute motion, but the language—Well, we'll put it. Mr. Clerk, do you want to read Mr. Kamhoot's. This will be a substitute motion to yours, Mr. Harper.

DELEGATE KAMHOOT: Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Kamhoot.

DELEGATE KAMHOOT: Mr. Chairman, I'd like one change. I would like to use the language that Delegate Brown put in and was accepted by this body. I think it's better than what I had in mine, if he can do that in that box up above. It might save some time and arguing here on the floor.

CHAIRMAN GRAYBILL: Mr. Kamhoot, the Chair is confused, then, because the nature of the ballot and the form that's suggested by Style and Drafting, in either Mr. Harper's form or in the form that's offered here, does not require a box of that nature, and so it's only adding another matter to the ballot that's confusing. Now, maybe I don't understand you; but if you do it either way, you don't need a box because nothing is changed.

It's either added—nothing has to be substituted for—it's either added in or taken out.

DELEGATE KAMHOOT: Well, perhaps I am confused on this. The way I understand it is that there is nothing going to be included in the Constitution unless by a majority vote—50 percent plus one, something could be put in.

CHAIRMAN GRAYBILL: No, that's not the situation. The situation on the majority report is that the Constitution as written up and finished here, when we go back on section—on General Orders on the Constitution, will say there shall be no gambling except as authorized by the Legislature and the people. And then, if they—if that's in the Constitution, their Section 3 here, 3-B, must get 51 percent in order to take the last half of that idea—namely, except allowed by the Legislature and so forth—out. Now, Mr. Harper has proposed reversing that in this sense, that he would put into the Constitution only the first half of that sentence—namely, there shall be no gambling—and then he would make 3-A and -B say—for saying "except as authorized by the people and the Legislature". And 51 percent would have to vote on that to put it in, so there's no explanation needed.

DELEGATE KAMHOOT: Very well, that is the point that I wanted to make. Then I will withdraw my amendment, but I would like to speak to Mr. Harper's amendment.

CHAIRMAN GRAYBILL: Very well, we'll withdraw your amendment, and you may speak on Mr. Harper's.

DELEGATE KAMHOOT: I think, to be consistent here, that this is a provision that we have had in our Constitution for, probably, I think, 82 years. It was in there from the start. It would seem that, in this case, as in all cases, the challenger must be the challenger. He has to prove his point if he wants to change something, so it would seem that this would only be proper, at this time, that, in our new document, that we would have the provision, as we had in our present Constitution, that there shall be no gambling. Now, if the people that want gambling in Montana in any manner, whether the Legislature provides for it or not, I think they should have to prove this point. Therefore, to be, as I said before, consistent with it, I would support Mr. Harper's amendment that we leave the section in the Constitution—before we vote on it even—that says gambling—all forms of gambling, lotteries and gift enterprises are prohibited. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Davis.

DELEGATE DAVIS: Mr. Chairman, I don't wish to cover this whole section. Everyone talked—we spent about a day on it the other day as to whether we were going to be—have the gambling prohibition in the Constitution or not, and we decided to leave it on the ballot, but we did not decide to remove the present prohibition that's in the Constitution from the Constitution. We decided, as my understanding, to leave the alternate choice on the ballot. I support Mr. Harper's amendment; and I think it's very, very important, now that we're down to the last day and the last hour and we're all kind of tired, to not let something slip through and say the Constitutional Convention has removed the prohibition against gambling. If we want to put it on a side issue and the people vote on it, remove it. But I think it's extremely important—unless it's the will of this gathering, this group to do so—to be sure that that present prohibition remains in, which is Section 9 on page 13, the second one, and put the—and the other issue would be the contender, then; and I think we should go ahead and vote on it and see what the will of the body is; and it's either a For or Against proposition, it seems like. We've discussed it, and it's been discussed in Montana since time began.

CHAIRMAN GRAYBILL: Mr. Harrington.

DELEGATE HARRINGTON: Mr. Chairman, fellow delegates. Commenting on Mr. Kamhoot's statement that we have to challenge here, I don't think this is a challenge. I think this is a new Constitution we're writing, and I don't think we should forget this, and whether—I would go along with the fact that the two of them be on the side ballot and neither one in, but the other day I think we were very explicit in voting down Mr. Harper's amendment, and I don't think we should put it back in right now. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Habedank.

DELEGATE HABEDANK: Mr. President, fellow delegates. I support Harper's amendment, and I do it for this reason. Even though I would concede that gambling can be legislative and it can be left up to the Legislature, I would call to your attention that every person who feels the opposite, who feels that gambling should be—an antigambling clause should be in this Constitution—would be forced to vote against the Constitution. Now, those who want the first Section 9 in this Constitution cannot take the same position. If they want to defeat the Constitution, they can do so. There is nothing we can do about it; but if they do defeat the Constitution, they will then have the antigambling clause in it; and the only way that we can assure having this Constitution accepted universally by the people is to let those who have the present Constitution, the anti-gambling clause in it, have that in the Constitution as it is and those who want to take it out run the risk of coming in and voting it out. If enough people in the State of Montana want to do this, where both those who are in favor of the Constitution and those who are against the Constitution can vote, they can do it. I agree with Dr. Heliker, the odds are bad; but I don't think they're as bad as if they—only those who were for the Constitution could vote on it; and I would urge you most strongly to leave the Constitution as it is, keep Section 9, the second clause—"all forms of gambling, lotteries and gift enterprises are prohibited"—in the Constitution that will be adopted unless the other obtains a majority of all those voting on the question.

CHAIRMAN GRAYBILL: Mr. Choate.

DELEGATE CHOATE: Mr. Chairman, I see a lot of places in our old Constitution that we have completely kicked out the door and made radical changes in many areas without the concern of maintaining what was there before because it had been there so long. I think that the proper perspective on this issue would be to place it as a free choice item as a side issue, with both 3-A and 3-B placed as side issues with no reference to either one in the Constitution. I don't think there's anything that would cause a lot of alarm. If we offered it as free choice and made sure that—

CHAIRMAN GRAYBILL: Now, Mr. Choate, I'm perfectly happy that you've put this proposition, but this is the third time you've spoken on it, and what you're proposing is the deletion you proposed the other day that this Convention voted down. If we put both of them as a side issue, and you may make a motion to do that, then if they get 47 and 49 percent, nothing's in the Constitution. Now, if you want to do that, you make a motion to that; but you're not speaking to Harper's amendment, and it confuses the body not to understand. If you want to make that motion, do so; and we'll take your vote again; but that's a different issue than we're arguing on right now. Do you follow me?

DELEGATE CHOATE: Yes, I follow. All right.

CHAIRMAN GRAYBILL: Okay, now; if you want to make a motion, fine. If you don't, then let somebody else discuss the Harper amendment or else you discuss the Harper amendment.

DELEGATE CHOATE: All right, I move, then, that 3-A and 3-B be placed as side issues on the ballot for the choice of the voters.

CHAIRMAN GRAYBILL: All right, Mr. Choate has made an—proposes an amendment to—a substitute motion to section—to the third section of the ballot to place 3-A and -B—to make 3-A and -B say—one of them—3-A would say: "There shall be no gambling", and 3-B would say: "There shall be no gambling unless authorized by the Legislature and the public". In other words, place both gambling issues on the side and put nothing in the Constitution. That's Mr. Choate's proposal now, and that's what we're debating.

Mr. Hanson.

DELEGATE ROD HANSON: Mr. President, I oppose Delegate Choate's motion and support Delegate Harper's motion; and without going into a lot of talk, I think that Delegate Habedank has made a real good point here. I think that the people that are opposed to gambling will vote for the new Constitution if we have that language in there. I think that the people that want gambling or want the Legislature to authorize gambling will come out and vote on the thing. I think that Mr. Choate's proposal will negate this type of thing, so I would say that if we really want to pass this Constitution, if this is the main thing that we want to do, then we should vote for Mr. Harper's amendment.

CHAIRMAN GRAYBILL: Mr. McNeil.

DELEGATE McNEIL: Mr. Chairman, I oppose the Choate amendment. I support George Harper's amendment, wholeheartedly. And I disagree with Lyman Choate when he said we voted the other day for the majority proposal, which would permit the Legislature to authorize gambling. I voted for that because the motion was put to have that issue as an alternative on the ballot. The Style and Drafting report now is to not have that as an alternative on the ballot but to have it in the body of the Constitution, so for that reason, I submit George Harper is 100 percent correct. In addition, I think there's a very practical reason to support George Harper's position, and that is the voter psychology. If we have this permission of gambling by the Legislature in the body of the Constitution, as submitted by the Style and Drafting Committee, those who oppose gambling in this state—and there's lots of them, including myself—will be tempted to vote against the Constitution, period, because it's in there. On the other hand, those who favor gambling, if gambling is out at the side—the permissiveness by the Legislature—rather than in the body, they won't vote against the Constitution, because the only way they can get gambling is to vote for the Constitution and vote for the side amendment. So, for that reason, I submit that the voter psychology—the best approach to getting this document passed is not to have gambling in the body—the permissiveness by the Legislature—but, rather, to have it as I voted for it the other day, to have the gambling authorized by the Legislature as the alternative and have in the body of the Constitution our present prohibition.

CHAIRMAN GRAYBILL: Mr. Arbanas.

DELEGATE ARBANAS: Mr. Chairman, fellow delegates. I can't help noticing that those who are speaking for the Harper amendment are those who voted against the gambling yesterday, and it just seems to me they're trying to reverse the decision of this house. When we voted on which of the propositions, unicameral or bicameral, were going into the body of the Constitution, it was by the will of this house. It was—Now we have an appeal that we should go by tradition. I would like to say to the—I understand what's going on here, but I think that the attempt really is to have us to reverse ourselves and that what should go into the Constitution—I kind of oppose both of these measures—I—should go in the Constitution what came out with the number 1 vote yesterday, or the other day, and that is the—that the Legislature could permit. I think that would reflect this group much more.

CHAIRMAN GRAYBILL: Mr. Burkhardt.

DELEGATE BURKHARDT: I rise as a member of Style and Drafting who voted against the recommendation of the committee to put the alternate in which allows the Legislature and the people to authorize the gambling, and I feel that some of the statements that have been made here this afternoon are misleading. We did not take a preference of this body in terms of what would definitely go in the Constitution. I voted on the prevailing side the other day because I wanted it as a side issue on the ballot and not because I wanted it in the body of the Constitution as a first choice. What complicates this now is the fact that Mr. Heliker is probably right in his statement about how things are going to happen on this election, and I feel that we create a tremendous backspin on this whole number 1 issue, For or Against the Constitution. We won't get a clear indication of the readiness of our people, in most areas, for reform; we'll simply get a vote up there on gambling or nongambling; and that's very discouraging. I would much rather have the alternate be something that is a new departure, rather than to assume that we can guess the voters of this state are going to take that much backspin in issue number 1. I would support George Harper's amendment.

CHAIRMAN GRAYBILL: Mr. Harrington.

DELEGATE HARRINGTON: Mr. Chairman, fellow delegates. I think somewhere along the line we're getting off. Mr. McNeil made a statement—we are now supporting Mr. Choate. I will support Mr. Choate's motion, which does not put this in the body of the Constitution—which leaves them both out—and I think this is the thing we should be talking on now, not the fact that this is still in the body of the Constitution. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Heliker.

DELEGATE HELIKER: Mr. Chairman, I oppose Mr. Choate's motion and support Mr. Harper's. I observe that we have, for the first time today, had two lawyers get up and make a very persuasive argument. I observe, also, however, the argument they made was psychological and not legal; and you can draw what conclusions you like from that.

CHAIRMAN GRAYBILL: All right, now, the issue is on Mr. Choate's motion to put—to take all the language out of the Constitution and put both of them as alternatives on the side. And we'll have a roll call vote. So many as shall be in favor of Mr. Choate's motion, vote Aye; so many as shall be opposed, vote No. Has every delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, cast the ballot.

Aasheim	Nay
Anderson, J.H.	Nay
Anderson, O.	Nay
Arbanas	Aye
Arness	Nay
Aronow	Nay
Artz	Nay
Ask	Nay
Babcock	Nay
Barnard	Nay
Bates	Nay
Belcher	Nay
Berg	Nay
Berthelson	Nay
Blaylock	Nay
Blend	Nay
Bowman	Nay
Brazier	Nay
Brown	Nay
Bugbee	Absent
Burkhardt	Nay
Cain	Aye
Campbell	Excused
Cate	Absent
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Nay
Dahood	Absent
Davis	Nay
Delaney	Nay
Driscoll	Aye
Drum	Absent
Eck	Nay
Erdmann	Nay
Eskildsen	Nay
Etchart	Absent
Felt	Absent
Foster	Aye
Furlong	Nay
Garlington	Nay
Gysler	Absent
Habedank	Nay
Hanson, R.S.	Nay
Hanson, R.	Nay
Harbaugh	Absent
Harlow	Nay
Harper	Nay
Harrington	Aye
Heliker	Nay
Holland	Absent
Jacobsen	Nay
James	Absent
Johnson	Nay
Joyce	Nay
Kamhoot	Nay
Kelleher	Aye
Leuthold	Nay
Loendorf	Absent
Lorello	Aye
Mahoney	Nay
Mansfield	Nay
Martin	Nay
McCarvel	Aye
McDonough	Aye
McKeon	Absent
McNeil	Nay
Melvin	Nay
Monroe	Absent
Murray	Nay
Noble	Absent
Nutting	Nay
Payne	Nay
Pemberton	Nay
Rebal	Aye
Reichert	Nay
Robinson	Nay
Roeder	Nay
Rollins	Absent
Romney	Aye
Rygg	Aye
Scanlin	Nay
Schiltz	Nay
Siderius	Nay
Simon	Nay
Skari	Nay
Sparks	Nay
Speer	Nay
Studer	Nay
Sullivan	Nay
Swanberg	Nay
Toole	Nay
Van Buskirk	Nay
Vermillion	Absent
Wagner	Nay
Ward	Aye
Warden	Nay
Wilson	Nay
Woodmansey	Nay
Mr. Chairman	Nay

CLERK HANSON: Mr. Chairman, 16 delegates voting Aye, 67 voting No.

CHAIRMAN GRAYBILL: 16 delegates having voted Aye and 67 having voted No, Mr. Choate's motion is defeated. We're now back on Mr. Harper's motion, which is to amend the Style and Drafting report so that we would put in the Constitution the simple language "There shall be no gambling" and put the exception "except as authorized by the people and the Legislature" as the one that has to get 51 percent, on the side.

Mr. Johnson.

DELEGATE JOHNSON: Mr. Chairman, I've not had but just a few opportunities to support Mr. Harper. In this, I do wholeheartedly. The cowboys down there in the Powder River country have said quite a number of times when they get into arguments with a group, quot homines, tot sententiae. That means "many men, too many minds". (Laughter)

CHAIRMAN GRAYBILL: All right, the issue is on Mr. Harper's motion, which would have the effect of reversing the nature of the ballot here and would put the language "There shall be no gambling" in the Constitution and put the exception "except as authorized by the Legislature and the people" on the outside, so that you had to get 51 percent to change the Constitution. All in favor of that motion, vote Aye; all opposed, vote No. Has every delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, take the ballot.

Aasheim	Aye
Anderson, J.H.	Aye
Anderson, O.	Aye
Arbanas	Nay
Arness	Nay
Aronow	Nay
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Nay
Brown	Nay
Bugbee	Absent
Burkhardt	Aye
Cain	Aye
Campbell	Excused
Cate	Absent
Champoux	Nay
Choate	Nay
Conover	Aye
Cross	Aye
Dahood	Aye
Davis	Aye
Delaney	Aye
Driscoll	Nay
Drum	Absent
Eck	Aye
Erdmann	Aye
Eskildsen	Nay
Etchart	Absent
Felt	Absent
Foster	Nay
Furlong	Nay
Garlington	Nay
Gysler	Absent
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Absent
Harlow	Aye
Harper	Aye
Harrington	Nay
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Absent
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Nay
Leuthold	Aye
Loendorf	Aye
Lorello	Nay
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Nay
McDonough	Nay
McKeon	Absent
McNeil	Aye
Melvin	Aye
Monroe	Nay
Murray	Aye
Noble	Aye

Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Nay
Reichert	Aye
Robinson	Absent
Roeder	Aye
Rollins	Absent
Romney	Nay
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Nay
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Absent
Wagner	Nay
Ward	Nay
Warden	Aye
Wilson	Aye
Woodmansey	Aye
Mr. Chairman	Aye

CLERK HANSON: Mr. Chairman, 63 delegates voting Aye, 23 voting No.

CHAIRMAN GRAYBILL: 63 delegates having voted Aye and 23 delegates having voted No, Mr. Harper's motion prevails and Style and Drafting will put the other words in the Constitution and change the nature of 3 so that it's clear how it works.

Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, I think the language in—for the ballot on 3 obtains for either situation.

CHAIRMAN GRAYBILL: I think you're right. I think line 3-A now has to have 50 percent plus one and it will allow the exception going into the Constitution. All right.

Mr. Harlow.

DELEGATE HARLOW: I am a little bit disturbed at the wording on that voting part down there. I haven't thought up any real good wording now, but 3-B says "Against allowing the people or the Legislature to authorize gambling." Are you stating in there that you are making it impossible for the people to initiate an amendment to the Constitution? That's what it sound like.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Yes, we talked about that in the committee, and the people can initiate a constitutional amendment. We can't stop them from doing that, but they can't have an initiative measure that would say we have gambling if—or under any circumstances if the prohibition's in there, any more than the Legislature could pass an act having gambling while Mr. Harper's provision is in there.

DELEGATE HARLOW: Mr. Chairman, I'm still—feel that we can word that better, because reading that off and taking it just as it says there, it means that the people cannot initiate an amendment to the Constitution authorizing gambling.

CHAIRMAN GRAYBILL: Well, Mr. Harlow, surely you're not talking about the people's basic right to amend the Constitution, which they have for anything? The point is, whether to put into the Constitution language authorizing the people—you know, the language is specific that—that we passed the other day, and it says "or the people may by initiative"—isn't that what you're talking about?

DELEGATE HARLOW: Yes.

CHAIRMAN GRAYBILL: You see, the people by initiative—unless we authorize the people to do it by initiative on the gambling issue, then the people are forced to amend the Constitution; and as we had when Mr. Etchart discussed this, there's a different measure of initiative for amending the Constitution than there is for the other thing.

DELEGATE HARLOW: Yes, very true.

CHAIRMAN GRAYBILL: So it seems to me that this certainly sets the sense of what we're putting in in the exception, if we ever put it in.

DELEGATE HARLOW: Well, okay. I brought the point out, and that's the thing that I had in mind. I haven't any better solution right now. I may think up one a little later, so I—see how—

CHAIRMAN GRAYBILL: Mr. Habedank.

DELEGATE HABEDANK: Mr. President, I would like to make a motion—I move to amend the wording of 3-A and 3-B to agree with the wording of Section 9, the sense of which would be, "For allowing the Legislature or the people through initiative or referendum to authorize gambling," and then it would be just the reverse in 3-B. In other words, in the one section they allow the Legislature or the people through initiative or referendum to authorize it, and in the other we didn't.

CHAIRMAN GRAYBILL: Mr. Habedank proposes an amendment to 3-A and -B, which would make them say, "For allowing the Legislature or the people through initiative or referendum to authorize gambling", and then "Against allowing the Legislature or the people through initiative or referendum to authorize gambling". In other words, he changes the order of it so that he can get the Legislature in front and the people through initiative or referendum—he adds people through initiative or referendum in order to cover Mr. Harlow's problem. That amendment is allowed. We'll discuss that.

Mr. Harrington.

DELEGATE HARRINGTON: Mr. Chairman, I'd just like to speak against this. We've already cut the heart out of the so-called issue right here. We've made—we've put the prohibition against gambling into the Constitution. Now we want to muddle the words, which is basically this. This basically states, are you for or against this? Now, we want to muddle the words so there is a little bit of conflict there; and I say if we go along with this, we will have a problem. I think that the words that are put in by Mr. Habedank would make it a little harder for the people to understand exactly what they're voting for; and as everybody knows here, this is one of the most important things when people are voting—they vote very quickly sometimes, and this could hurt. Thank you.

CHAIRMAN GRAYBILL: Mr. Schiltz was up first.

DELEGATE SCHILTZ: Mr. Chairman, now that we only have two more to go, let's keep battling it out, shall we? You have an unerring instinct of going to the point that the committee started with and retreated from. We started with putting all those words in there, and the committee was unanimous that it was unnecessary to have them in in any respect and that this was much plainer to the normal voter—the average voter—just exactly what it was—amounted to. Just as Mr. Harrington said, you throw in a couple of words like "initiative" and "referendum", and down there in Powder River County, they probably know what they mean, but there may be other places where they don't. We resist the amendment—or I resist the amendment.

CHAIRMAN GRAYBILL: Mr. Swanberg.

DELEGATE SWANBERG: Mr. President, I think this is the time, now, to start asking ourselves whether gambling and the death penalty could be considered as separate items to be voted on by the people or whether it has to be part of the Constitution. And just as a beginner, I would suggest that our easiest solution to our wording problem is to cite our gambling alternate at length in our ballot. It's very short and simply says: "All forms of gambling, lotteries and gift enterprises are prohibited unless authorized by the acts of the Legislature or by the people through initiative and referendum". We could cite that in—at length in the ballot and, underneath, simply say, "For inclusion in the proposed Constitution; Against inclusion in the proposed Constitution" and do the same thing with the death penalty, which is likewise short and simply says: "Death shall not be prescribed as a penalty for any crime against the state"—there is the sentence verbatim which they vote upon and beneath that which—simply state, "For inclusion in the proposed Constitution; or Against inclusion in the proposed Constitution". Now, do we say "For inclusion in the proposed Constitution", or do we say "For the proposed amendment"? This gets at the heart of our problem here. This would allow, you see, on both of these points, for the public to be voting upon the gambling and the death penalty issue as a separate item; and whether the Constitution above won or lost, then the gambling and the death penalty thing would go through if they were approved, if that's what we want.

CHAIRMAN GRAYBILL: Mr. Swanberg, I understand your point as far as putting—there's a different way to put it on the ballot. I understand that; but on this issue of somehow creating an amendment, we're not authorized to create amendments, are we? We're authorized to create—or am I wrong?

DELEGATE SWANBERG: Well, I'm not quite sure, but I have here an analysis of the Enabling Act, and it says the Convention may submit proposals to the electorate for ratification in any of the following forms: first, submitted as a unit in the form of a new Constitution; (b) submitted as a unit with the exception of separate proposals to be voted upon individually; or (c) submitted in the form of a series of separate amendments. Now, it doesn't say that we can combine—it's silent on whether we can use all three approaches, but it looks to me like we could.

CHAIRMAN GRAYBILL: I see what you mean. You've got two ideas there.

DELEGATE SWANBERG: Yes.

CHAIRMAN GRAYBILL: Maybe we can straighten them out here.

DELEGATE SWANBERG: The question seems to me to be one of tactics, primarily.

CHAIRMAN GRAYBILL: "Said constitution shall meet within 3 months after each election and prepare such revisions, alterations or amendments to the Constitution as may be deemed necessary, which shall be submitted to the electors for their ratification or rejection at an election appointed for that purpose not more than 2"—and so forth. Now, I see your point, and perhaps we should cross it. I don't know whether you want to cross it yet or whether we want to clear up the Habedank amendment.

Mr. Dahood.

DELEGATE DAHOOD: Mr. Chairman, I am opposed to the Habedank amendment, but I wonder how many delegates here appreciate the fact that there are a number of delegates on this floor and a number of observers that are beginning to think that we're getting much too talkative and too verbose over the work of the committee. There are 11 members on the Style and Drafting Committee. They had no particular difficulty, apparently, in coming up with an official ballot. I'm willing to concede that the work that we've done so far was perhaps necessary. We're not going to an illiterate citizenry. We're going to an intelligent citizenry, and they're going to be able to look at this ballot and they're going to know now what they should do and what they should not do. And they've got language that's very simple and very understandable, and I anticipate we're going to have some argument, too, as to whether or not we can improve upon "For the death penalty or Against the death penalty". And sometimes there's a great deal of virtue in simplicity, and I think it's time that we finish our consideration of the official ballot; the two issues that remain are just as clear as they're ever going to be and there is no way to attain perfection—there is no way to satisfy everyone; and I think it's about time we paid some consideration and some tribute to the committee that spent hours and hours thinking about this problem and that have now presented to us, with the work we've already done, the best type of ballot that we're going to get. And I oppose the Habedank amendment.

CHAIRMAN GRAYBILL: Mr. Wilson.

DELEGATE WILSON: Mr. President, my cowboys might not be too smart, but I think they can understand the ballot in the way it's presented, and I'm against cluttering it up with any more language and making it harder to understand.

CHAIRMAN GRAYBILL: Mr. Siderius.

DELEGATE SIDERIUS: Mr. Chairman, I think I'm about the simplest-minded person here, and I can understand it very well. I think we can go ahead with it.

CHAIRMAN GRAYBILL: Now, the issue is on the Habedank amendment; and if you want to discuss the Habedank amendment, Mr. Swanberg, fine; after we handle that, I'll discuss your other problem. All right, Mr. Habedank proposes an amendment which would say, in 3-A and 3-B, "allowing the Legislature"—"For allowing the Legislature and the people through initiative and referendum to authorize gambling and Against authorizing the Legislature and the people through initiative and referendum". Roll call vote. So many in favor of the Habedank amendment to change that language, vote Aye; so many against, vote No. Has every delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Now, every delegate clearly hasn't voted or else there are a lot ot them—and there are a lot not voting, but that's fine. We'll close the ballot.

Aasheim	Nay
Anderson, J.H.	Nay
Anderson, O.	Aye
Arbanas	Absent
Arness	Nay
Aronow	Nay

Artz	Nay
Ask	Aye
Babcock	Nay
Barnard	Nay
Bates	Nay
Belcher	Nay
Berg	Nay
Berthelson	Nay
Blaylock	Nay
Blend	Nay
Bowman	Nay
Brazier	Aye
Brown	Absent
Bugbee	Nay
Burkhardt	Nay
Cain	Aye
Campbell	Excused
Cate	Absent
Champoux	Nay
Choate	Nay
Conover	Nay
Cross	Nay
Dahood	Nay
Davis	Absent
Delaney	Absent
Driscoll	Nay
Drum	Absent
Eck	Nay
Erdmann	Nay
Eskildsen	Absent
Etchart	Absent
Felt	Absent
Foster	Nay
Furlong	Nay
Garlington	Nay
Gysler	Absent
Habedank	Aye
Hanson, R.S.	Absent
Hanson, R.	Aye
Harbaugh	Absent
Harlow	Aye
Harper	Aye
Harrington	Nay
Heliker	Nay
Holland	Absent
Jacobsen	Nay
James	Absent
Johnson	Nay
Joyce	Nay
Kamhoot	Nay
Kelleher	Nay
Leuthold	Nay
Loendorf	Nay
Lorello	Absent
Mahoney	Nay
Mansfield	Nay
Martin	Nay
McCarvel	Nay
McDonough	Nay
McKeon	Absent
McNeil	Nay
Melvin	Nay
Monroe	Aye
Murray	Nay
Noble	Nay
Nutting	Nay
Payne	Nay
Pemberton	Nay
Rebal	Nay
Reichert	Nay
Robinson	Nay
Roeder	Nay
Rollins	Nay
Romney	Nay
Rygg	Nay
Scanlin	Nay
Schiltz	Nay
Siderius	Nay
Simon	Nay
Skari	Nay
Sparks	Nay
Speer	Nay
Studer	Nay
Sullivan	Nay
Swanberg	Nay
Toole	Nay
Van Buskirk	Nay
Vermillion	Absent
Wagner	Nay
Ward	Nay
Warden	Nay
Wilson	Nay
Woodmansey	Nay
Mr. Chairman	Nay

CLERK HANSON: Mr. Chairman, 9 delegates voting Aye, 73 voting No.

CHAIRMAN GRAYBILL: 9 delegates having voted Aye, 73 voting No, the motion of Mr. Habedank is defeated. Now, the Chair is going to take a very dim view of people discussing issues, who are not here, so I'm asking that the delegates that are not here and if they're in the hearing of my voice, that they come in. You—we're going to get in the position of people discussing things that have been discussed. We're nearly through. I think we ought to sit through and finish this up; and we have 18 members absent; and if they don't want to vote, that's fine; but then they'd better not come in and try to discuss, because I'm not going to recognize them. Now, the Chair also has another observation to make that I would hope that everyone will listen to so we understand it, because you may want to take action on it. Mr. Swanberg has raised the interesting point that this Convention could propose both a Constitution and some amendments to the old Constitution, and he's three times mentioned this and he just finished mentioning it, and it is—it would be possible to propose amendments on these issues or, for that matter, on any of the other issues that we've put in the Constitution. The language of the Enabling Act and, for that matter, the language of the old Constitution is broad enough, since it uses the words "may propose amendments"—is broad enough to authorize us to do that. We have not proceeded on that basis till now, and we're on the ballot. The Chair is going to rule that the proposals that we are considering, these three different proposals, were proposals made for inclusion in the new Constitution, which is clearly the way we adopted them when we made them proposals. The Chair is going to rule that we have not, as a body, considered them as possible amendments to the old Constitution except as they are inclusions in the new Constitution, which, of course, replaces the old if it passes. Therefore, the Chair is going to rule out of order any proposal that these be considered amendments, and if you don't like that, then you may stand and make a motion to suspend the rules, and if you can suspend the rules, we'll go back and consider these matters as amendments to the old Constitution, but until we've done that, we won't take any more time discussing the possibility of amendments other than the new Constitution we're considering.

Now, Mr. Swanberg, that's how I think I have to solve your problem, and you may make a motion to suspend the rules if you want to.

DELEGATE SWANBERG: Mr. President, I'm in total agreement with the Chair. I've been giving this a lot of thought; and I, too, agree that we're submitting a complete new ball game here to the public and that these three proposals that we have here—the unicameral-bicameral, the gambling issue and the death penalty—are being submitted to the electorate for a vote as possible alternates; but I submit the ballot itself is not quite clear on that point. I submit that the voter could look at that and say, "Well, I'm against the Constitution so I'll vote No, but, by golly, I'm for the death penalty, so I'm going to vote Yes down here", and there may be some confusion and a good deal of hard feelings if it turns out that they were in error, so perhaps some kind of language ought to be in here to state clearly and explicitly that these proposals are to be voted on and will be a part of our—the body of our law only in the event the new Constitution is passed. Whatever that language is, I don't know. I have a suggestion, that the Chair has, that has a sentence in it; but whether that's adequate or not is questionable. The sentence simply says: "If you voted for the proposed Constitution, you may also vote on whether the following proposals should be included within it," and then there's the death penalty and the gambling issue. That would clarify it, in my opinion.

CHAIRMAN GRAYBILL: All right, now, the Chair has before it some language from Mrs. Bates. Mrs. Bates, I don't know whether this should be made an amendment or not; but with your permission, the Chair will inquire of Mr. Schiltz and of some of the others and at least probe the possibility. The official ballot has instructions at the top—place an "X" in the box, express your preference. The full text is in—is available for inspection. Now, it might be that we would be well advised to add language to the instructions which might say something like this—this is Mrs. Bates' question: "The Constitution will be ratified only if a majority of those voting in this election vote for the Constitution. If the Constitution receives a majority, each alternative below—Sections—or 2, 3 and 4—must also receive the same majority." This would, of course, clear up Mr. Swanberg's point, the second sentence, saying that if the Constitution receives a majority, each of the alternatives below must also receive a majority—would clear up Mr. Swanberg's point that these are considered as an amendment. They'd have—they would—as an amendment to the old one. I don't know whether it's necessary to say that the Constitution will be ratified only if a majority of the voters vote, but it doesn't say that yet, and the query that Mr. Berg has placed on Mrs. Bates' thing is, is this covered in transition? In the Transition Article? Now, I asked Mr. Schiltz to yield after thinking about that, or about whether we should add that to the instructions. In other words, should the instructions say the Constitution will be ratified only if a majority of those voting in this election vote for it and, secondly, if it is ratified, then each alternative must also receive a majority.

Mr. Schiltz, do you have any thoughts?

DELEGATE SCHILTZ: Well, Mr. Chairman, I'd have to go through the Transition Schedule, I don't think that's covered in the transition, though. There's no reason why it would be.

CHAIRMAN GRAYBILL: Or in the Adoption Schedule?

DELEGATE SCHILTZ: No, it wouldn't be in there either.

CHAIRMAN GRAYBILL: Well, Section 1 of the Adoption Schedule says "if approved by a majority of those voting".

DELEGATE SCHILTZ: That's right. There it is.

CHAIRMAN GRAYBILL: Would it be useful to add—you know, it isn't going to make much difference what's at the top of the ballot. It's—there's going to be a little box of something there, and would it be helpful to add sentences to the effect that a majority must vote before this Constitution is adopted and that if that happens, then the other three propositions must receive a majority? Would it be helpful to add that language at the top?

Mr. Brown—oh, you're just sitting down.

DELEGATE SCHILTZ: Well, Mr. Chairman, I don't know. If it didn't—what we have striven for is to stay away from too much language, as you can see. We thought we had the box pretty well tidied up and we had the top pretty limited. I wouldn't object, I guess, if it didn't add more stuff. One of the problems I had with Mr. Ask's proposal was that the instructions were so lengthy that I was afraid nobody'd get to the vote. I don't know, I would have to think about it more than I've thought about it now, Mr. Chairman.

CHAIRMAN GRAYBILL: Mrs. Bates.

DELEGATE BATES: Mr. Chairman, I sent that up just for information up there and wondered what you thought of it, but I feel that if we could put something like this—and maybe the Style and Drafting would want to work it over a little bit—on the top of the ballot, it would explain to the people a little better exactly what has to take place. And I'd like to so move that for their consideration.

CHAIRMAN GRAYBILL: All right, I'll consider it moved or something like it moved. Now, the Chair has another question of the Style and Drafting Committee. I have been of the opinion that the material in the box was necessary to—because of the replacement of bicameral by unicameral, and I'm still of that opinion, but one of the things we did with Mr. Brown's language was say that unless a majority of those voting in this election voted for it, unicameral couldn't win. Have we ever said that unless a majority of those voting for 3 and 4 vote for it, they can't win, Mr. Schiltz? Or are we in the position of getting a plurality for 3-A? That—we all agree, I think, that that won't do it.

DELEGATE SCHILTZ: Mr. Chairman, if that's a problem,—am I on? If that's a problem we ought to put something up there like Mrs. Bates' material. We took the position that—as you can see from the other ballots we proposed, that we didn't think it was necessary to put any of this in; but then when the question was raised, we decided that it was essential that we have it in insofar as the Legislature was concerned, because we couldn't do without a Legislature; and we thought if we put something similar in each of the other ones, we were going to clutter the whole thing up so badly that it would be almost unintelligible. You can almost say by inference that 3 and 4 must have the same kind of vote on them; but maybe if there's a problem there, we could slip a couple of words in to satisfy Mrs. Bates' thoughts. I would like to have about 2 minutes to style that and get it into about seven or eight words, though, if I could.

CHAIRMAN GRAYBILL: What if it said, "The Constitution and any of the alternatives listed below will be ratified only if a majority of those voting in this election vote for them." Well, it seems to me we may need some such language, Mr. Schiltz.

DELEGATE SCHILTZ: Well, I think you could say, "A majority of those voting in this election is necessary to carry all issues."

CHAIRMAN GRAYBILL: All right, let's write that down and see where that takes us. "A majority of those voting in this election is necessary to carry"—is that what you want to say?—"carry the Constitution or other issues"—"to approve the Constitution or"—all right, "adopt the Constitution or any of the alternatives listed below."

DELEGATE SCHILTZ: I'm more satisfied with what I said. When we get up there in that room with no windows, we would have crossed out most of what you added to what I said.

CHAIRMAN GRAYBILL: I don't think I had it. "A majority of those voting in this election is necessary to carry the Constitution or any of the alternatives listed below."

DELEGATE SCHILTZ: I just said, "all issues", which is about 14—

CHAIRMAN GRAYBILL: I see, "to carry all issues"—but that, to me, Mr. Schiltz, implies that a majority of those voting is necessary—but a majority on one might—certainly doesn't carry all issues. I think you've got to say "any issues".

DELEGATE SCHILTZ: How about "all four issues"?

CHAIRMAN GRAYBILL: Or how about "any issue".

DELEGATE SCHILTZ: All right, "or any issue".

CHAIRMAN GRAYBILL: How about "is necessary to adopt any issue".

DELEGATE SCHILTZ: Well, now, I'd have to go back in and see what the wording is on adoption, whether the vote constitutes an adoption—and I'd just—

CHAIRMAN GRAYBILL: Well, all right, do you want to use "carry"?

DELEGATE SCHILTZ: I would—I think it's plain enough and clear enough.

CHAIRMAN GRAYBILL: A majority of those voting in this election is necessary to carry any issue.

DELEGATE SCHILTZ: That would satisfy me and, I think, inform the voters.

CHAIRMAN GRAYBILL: Now, Mrs. Bates, that does precisely—Mrs. Bates would withdraw hers and allow Mr. Schiltz to move that. Do you want to move that as part of the instructions, Mr. Schiltz?

DELEGATE SCHILTZ: I would move that that be placed on the top as a new sentence on the instructions we have now.

CHAIRMAN GRAYBILL: Is there—all right, Mr. Schiltz moves that we add, as a sentence in the instructions, the following: "A majority of those voting in this election is necessary to carry any issue". Is there discussion?

Mrs. Eck.

DELEGATE ECK: Mr. Chairman, I can see this as being misleading, because if a majority vote for one of the alternates down below and don't vote for the Constitution, it is not enough to carry them. I think, almost, you'd have to add that—something like "alternates 2 and 3 and 4 cannot carry unless the Constitution is ratified". I don't think that's the way it wants to be said.

CHAIRMAN GRAYBILL: How about "to carry the Constitution or any subissue"? Does the word "sub" help?

DELEGATE ECK: No, I don't think it does, because the subissues can only carry if the Constitution does.

CHAIRMAN GRAYBILL: Right, but doesn't "sub" imply that? Mr. Loendorf, have you got a little help?

DELEGATE LOENDORF: Would you read the language, Mr. Chairman.

CHAIRMAN GRAYBILL: The last one or Mr.—

DELEGATE LOENDORF: The whole sentence.

CHAIRMAN GRAYBILL: "A majority of those voting in this election is necessary to carry any issue".

DELEGATE LOENDORF: I think you've solved Mrs. Eck's problem, then, because you have used the words "in this election", which indicate the majority has to be a majority voting in the election, not on any separate issue.

CHAIRMAN GRAYBILL: No, but her point is that a majority might vote for the death penalty part and not for the Constitution, and it doesn't carry the issue.

DELEGATE LOENDORF: That's right.

CHAIRMAN GRAYBILL: "A majority of those voting in this election is necessary to carry the Constitution and also"—or, let's see—"and each alternative must"—let's see. All right, I think I've got it. What do we call them? It's a little long for Mr. Schiltz. Now, you might be able to work with this, Mr. Schiltz. "A majority of those voting in this election is necessary to carry the Constitution. In addition, each alternative must receive such a majority to carry." Where is Mr. Brown? He's our expert on this.

Mr. Berg. I'm sorry; I haven't been looking.

DELEGATE BERG: I only wanted to suggest that, instead of the word "carry", you use the word "approve", because that's the word that's used in Section 8 of Article XIX. And I was going to—

CHAIRMAN GRAYBILL: That's easy. But solve this other—

DELEGATE BERG: —then I was going to suggest, on the other one, "or any issue listed below".

CHAIRMAN GRAYBILL: But Mrs. Eck's point is that an issue can receive a majority and not be carried unless the majority of the—carries the Constitution, too. Well, maybe you should say "and".

Mr. Loendorf.

DELEGATE LOENDORF: Yes, Mr. Chairman, we can't make law in that sentence. It constitutes instructions to the voters. Therefore, I'd just leave it as you first proposed it.

CHAIRMAN GRAYBILL: "A majority of those voting in this election is necessary to carry any issue"?

DELEGATE LOENDORF: Yes.

CHAIRMAN GRAYBILL: Which implies that something else may be necessary, too, but at least a majority is.

Mr. Murray.

DELEGATE MURRAY: Mr. Chairman, I think that all of us are going to have to go home and do just what every trial lawyer does when he presents his case to a jury. When he has a written verdict in his hand and he asks that jury to go in and reach a decision, he's going to have to explain this ballot, and I don't see any reason to carry on this debate in an attempt to do all of these things, or we'll be here forever. I think those instructions are clear and that they're plain, and I think we ought to end with them just where they are.

CHAIRMAN GRAYBILL: The instructions—the only thing that's concerning us, Mr. Murray, there is nothing in the ballot now that says that 3 and 4 have to have this majority; and what's going to happen is that—or what could happen is that 49 percent could vote for the gamblers and 47 against; and the gamblers are going to think they won; and they're not going to win. And we're not going to have told them that. But I'm sure that that isn't going to change the law; but maybe to be fair, we ought to tell them they got to have a majority.

Mr. Murray.

DELEGATE MURRAY: What I'm trying to say to you is that we are going to advise the gamblers about that before they ever get into the poll booth.

CHAIRMAN GRAYBILL: Mr. Swanberg.

DELEGATE SWANBERG: Mr. President, I think we're overlooking a good opportunity here to do a little free advertising on the ballot, and I think we'd better take advantage of every opportunity we have to do this. And instead of putting it up at the top in instructions to voters, I think this, too, should be in a box; and I think it should be said loud and clear in that box that the following two proposals shall be ineffective—or words to this effect—unless the proposed Constitution is passed, so that those who want this gambling or whatever it is that they want will make darned sure that they vote for the Constitution in the first instance; otherwise, their activity is idle. Let's put it down there where they can be readily seen by all those who vote, and I think we'll get a lot of votes that way.

CHAIRMAN GRAYBILL: In other words, you'd put a box in after 1 and say: "If the Constitution receives a majority of the votes, the following propositions can be adopted by a majority."

DELEGATE SWANBERG: Even stronger than that.

CHAIRMAN GRAYBILL: How's that, Mr. Schiltz?

DELEGATE SWANBERG: I mean, it's just a good—it's a sort of a neon sign there, it seems to me, to get a little advertising.

CHAIRMAN GRAYBILL: All right. Mr. Swanberg has suggested that after the first ballot, we put in a box that says: "If the Constitution receives a majority of the votes in this election, the following propositions may be adopted by a majority of the votes in this election."

DELEGATE SCHILTZ: Mr. Chairman, I'll do whatever this committee votes to do. I have stated my feelings. I'm in accord with Mr. Murray; I don't think it's necessary. We are doing all sorts of brochures and one thing and another, and we've got the newspapers full of this 50 percent plus one business. If they don't know now, they're never going to know. I don't see any reason to add another comma or period or anything else to this ballot as we have it right at this minute, but I'll do whatever—

CHAIRMAN GRAYBILL: And you—well, I'll hear Mrs. Eck.

DELEGATE ECK: Mr. Chairman, I'm inclined to agree with Mr. Schiltz, but I do have another wording here which might do what we want and also give us a little free advertising on the ballot. It would say: "Each issue listed below"—or how you want to define them—"requires a majority vote of those voting in this election, as well as a majority vote approving the proposed Constitution".

CHAIRMAN GRAYBILL: "Each issue below requires a majority vote—"

DELEGATE ECK: "—of those voting in this election, as well as a majority vote—"

CHAIRMAN GRAYBILL: "—in this election—"

DELEGATE ECK: Un-huh.

CHAIRMAN GRAYBILL: "—as well as a majority—"

DELEGATE ECK: "—vote approving proposed Constitution."

CHAIRMAN GRAYBILL: "—majority vote for the proposed Constitution"?

DELEGATE ECK: "For the proposed Constitution" would do just as well.

CHAIRMAN GRAYBILL: Mrs. Eck, will you move that?

DELEGATE ECK: Mr. Chairman, I move that this be added to the instructions at the top of the ballot.

CHAIRMAN GRAYBILL: Mr. Schiltz, do you want to withdraw yours?

DELEGATE SCHILTZ: No, I don't.

CHAIRMAN GRAYBILL: You don't want to withdraw the one that says: "A majority of those voting in this election is necessary to carry any issue"?

DELEGATE SCHILTZ: Well, I—

CHAIRMAN GRAYBILL: Well, all right, leave it in there. But Mrs. Eck will amend it; and if she fails, you're up. All right. I feel like a Keno man making book. (Laughter) All right, the issue now is Mrs. Eck's motion that we add to the instructions a sentence saying: "Each issue below requires a majority vote of those voting in this election, as well as a majority vote for the proposed Constitution." Is there discussion?

Mr. Anderson.

DELEGATE OSCAR ANDERSON: Well, I understand there's three issues in here that don't require a majority vote in order to be placed in the Constitution.

CHAIRMAN GRAYBILL: No, you're not right about that, Oscar. There's not even two. There's none that don't require a majority vote.

Mrs. Bates.

DELEGATE BATES: Mr. Chairman, since we've been discussing this, I think that we have the sense of the group and that Style and Drafting could handle this sentence, the structure of this sentence, and that maybe we just decide whether we want a short explanation of this type and let them really handle the wording.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: The time has rapidly come and has now arrived when Style and Drafting can no longer do anything, because we go to the printers tomorrow morning.

CHAIRMAN GRAYBILL: Well, Mr. Schiltz, we don't go to the printers until this is done.

DELEGATE SCHILTZ: Well, that's true enough.

CHAIRMAN GRAYBILL: So don't worry about the printer. I mean, we're going to write the Constitution; don't worry about the printer.

DELEGATE SCHILTZ: That's true enough, except that we can't have a committee meeting tomorrow morning and redo all this and still get it to the printers.

CHAIRMAN GRAYBILL: Right. Right.

Mr. Mahoney.

DELEGATE MAHONEY: Mr. Chairman, I've listened to a great deal of interest here this afternoon, and I think there that we're indicting the educators around here. We have spent millions and millions of dollars in this state to educate these people to understand, and to me this is very plain, and I don't know as we got to get it down here so plain that—I think we could stop. I like this original proposition. It looks good, and we talk about it, and let's don't indict the educators.

CHAIRMAN GRAYBILL: Mr. Blaylock.

DELEGATE BLAYLOCK: Mr. President, I agree with Mr. Mahoney. And being an educator, let's get on and vote with this thing. And I'm happy with the language that's in here.

CHAIRMAN GRAYBILL: All right, now, the Chair does have Mr. Schiltz and Mrs. Eck up. Do you want to vote on that, Mrs. Eck? All right, the issue is on Mrs. Eck's language to add, into the instructions, a sentence saying: "Each issue below requires a majority vote of those voting in this election, as well as a majority vote of the proposed Constitution." All in favor, vote Aye; opposed, vote No. Has every delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, take the ballot.

Mr. Berg, for what purpose do you rise?

DELEGATE BERG: Berg votes No.

CHAIRMAN GRAYBILL: Berg votes No.

Aasheim	Nay
Anderson, J.H.	Nay
Anderson, O.	Nay
Arbanas	Aye
Arness	Nay
Aronow	Nay
Artz	Nay
Ask	Nay
Babcock	Nay
Barnard	Nay
Bates	Aye
Belcher	Nay
Berg	Nay
Berthelson	Nay
Blaylock	Nay
Blend	Nay
Bowman	Nay
Brazier	Nay
Brown	Nay
Bugbee	Aye
Burkhardt	Nay
Cain	Nay
Campbell	Excused
Cate	Absent
Champoux	Nay
Choate	Nay
Conover	Nay
Cross	Nay
Dahood	Nay
Davis	Absent
Delaney	Nay
Driscoll	Aye
Drum	Absent
Eck	Aye
Erdmann	Nay
Eskildsen	Nay
Etchart	Nay
Felt	Absent
Foster	Nay
Furlong	Nay
Garlington	Nay
Gysler	Nay
Habedank	Aye
Hanson, R.S.	Nay
Hanson, R.	Nay
Harbaugh	Absent
Harlow	Nay
Harper	Absent
Harrington	Nay
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Absent
Johnson	Nay
Joyce	Aye
Kamhoot	Nay
Kelleher	Absent
Leuthold	Nay
Loendorf	Nay
Lorello	Absent
Mahoney	Nay
Mansfield	Absent
Martin	Nay
McCarvel	Nay
McDonough	Nay
McKeon	Absent
McNeil	Absent
Melvin	Nay
Monroe	Absent
Murray	Nay
Noble	Nay
Nutting	Nay
Payne	Nay
Pemberton	Nay

Rebal	Nay
Reichert	Aye
Robinson	Nay
Roeder	Nay
Rollins	Nay
Romney	Aye
Rygg	Aye
Scanlin	Nay
Schiltz	Nay
Siderius	Nay
Simon	Nay
Skari	Nay
Sparks	Absent
Speer	Nay
Studer	Nay
Sullivan	Nay
Swanberg	Aye
Toole	Aye
Van Buskirk	Absent
Vermillion	Absent
Wagner	Nay
Ward	Nay
Warden	Nay
Wilson	Nay
Woodmansey	Nay
Mr. Chairman	Aye

CLERK HANSON: Mr. Chairman, 16 delegates voting Aye, 66 voting No.

(The official roll call shows 15 Aye, 67 Nay, 1 Excused, 17 absent and is correctly reported in the preceding roll call tabulation)

CHAIRMAN GRAYBILL: 66 having voted No, Mrs. Eck's motion is defeated.

Mr. Schiltz, do you want yours withdrawn, or do you want to put?

DELEGATE SCHILTZ: I will withdraw mine.

CHAIRMAN GRAYBILL: All right, it's withdrawn.

Mr. Swanberg.

DELEGATE SWANBERG: Mr. President, as the ballot stands now, it's still not clear, in my opinion, under items 2 or 3, that a person who votes, for example, for allowing the Legislature to authorize gambling—it's not going to be clear to him, if he votes for it, what the situation is. I submit that we have a golden opportunity to pick up a lot of votes here simply by putting in, after item 2, a box—another box, and in that box something like this should be stated: "If you voted for the proposed Constitution above, you may also vote on whether the following proposals should be included within it." And that would be a clear and distinct statement to all those who vote on the gambling issue that they'd better vote for the Constitution up above if they want to change the gambling picture in Montana. I submit we'd pick up an awful lot of votes just by that simple tactic. All those who had strong feelings about the death penalty likewise would look at that box and say, "Well, I'd better vote for the Constitution if I want to abolish the death penalty in Montana", and in that way, I think we would strengthen our hand immeasurably. Whether you're For or Against gambling or the death penalty is beside the point here; so I would move, then, that after paragraph 2, the language which I just read to you and which you have on your desks be included in a box within it.

CHAIRMAN GRAYBILL: Very well. Now, Mr. Swanberg, I didn't get your exact language, but I got this: "If the Constitution receives a"—for a box after 2—"If the Constitution receives a majority of those voting, the following proposals may be approved by a majority of those voting at this election." Now, the Chair is aware of how impatient you all are, but the Chair has some sympathy for this because there is nothing on this ballot that explains that it takes a majority vote on 3 and 4. Now, you can go without it, but it does not now explain that and it is, in fact, necessary. And Mr. Anderson just pointed out he wasn't clear on that himself, so we have nothing there yet; and you can vote this down, but until—but it won't then be explained. Mr. Swanberg, is that language sufficient for you? "If the Constitution receives a majority of those voting, following proposals may be approved by a majority of those voting at this election."

DELEGATE SWANBERG: Mr. President, I'm not an ad writer. What we are writing here is a good ad. The language you have put in is okay. I would suggest we put something in and then we go over this ballot again and we can correct it again if we—need be. But it just seems to me that there's a golden opportunity here to pick up a lot of votes, and I'd like to take advantage of it, as well as clarify the situation. Those who vote No down here and—well, strike that. Let it go. It's too complicated.

CHAIRMAN GRAYBILL: All right. Well, I've got some language here that will do it. I don't know if it's good enough, and it can be amended.

Mr. Ask.

DELEGATE ASK: Mr. Chairman, could I move a substitute motion? In the instructions—I think all we have to say in instructions is just one line to say: "If the proposed"—"If the vote on the proposed Constitution fails, all alternative issues also fail," period; and that should explain it. That would be just in the instructions.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, members of the committee. I think Mr. Ask, is—in about one-half of a sentence, has taken care of the whole thing. I—That'd be fine, I think.

CHAIRMAN GRAYBILL: Mr. Ask, are you saying, if the proposed Constitution fails to receive a majority of the votes cast, the alternative proposals also fail?

Mr. Swanberg.

DELEGATE SWANBERG: Let's think positively here. Let's not use the word "fail" anywhere in this ballot. And here we have the word "fail" used twice, and I submit that the language which the Chair just read puts it in positive terms and is far to be preferred.

CHAIRMAN GRAYBILL: Mrs. Bates.

DELEGATE BATES: Mr. Chairman, that sounded very good to start out with, but actually all these things don't fail because we are going to have one or the other, a bicameral or a unicameral.

CHAIRMAN GRAYBILL: No.

DELEGATE BATES: We've got in the old Constitution gambling.

CHAIRMAN GRAYBILL: Mrs. Bates, the propositions here fail if the first one doesn't pass.

DELEGATE BATES: (Inaudible)—propositions. But we have two votes—

CHAIRMAN GRAYBILL: All right. Well, we've got a clear-cut issue here between Mr. Ask's and Mr. Swanberg's, and Mr. Ask's has got the substitute motion and the issue is—Mr. Ask says in the instructions: "If the proposed Constitution fails to receive a majority of the votes cast, the alternative proposals also fail." And Mr. Swanberg, if you want to put it positively, has a box after the second paragraph—second ballot that says: "If the Constitution receives a majority of those voting at this election, the following proposals 3 and 4 may be approved by a majority of those voting." Now, the issue is on Mr. Ask's. I take it you're ready for the vote. All in favor—a roll call vote—say—vote Aye if you're in favor of Mr. Ask's, and vote No if you're not. Has every delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Does any delegate want to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, cast the ballot.

Aasheim	Aye
Anderson, J.H.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Aye
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Absent
Belcher	Aye
Berg	Nay
Berthelson	Nay
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Absent
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Excused
Cate	Absent
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Nay
Davis	Nay
Delaney	Nay
Driscoll	Nay
Drum	Absent
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Absent

Foster	Aye
Furlong	Aye
Garlington	Aye
Gysler	Aye
Habedank	Nay
Hanson, R.S.	Aye
Hanson, R.	Nay
Harbaugh	Aye
Harlow	Nay
Harper	Nay
Harrington	Aye
Heliker	Nay
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Absent
Leuthold	Aye
Loendorf	Nay
Lorello	Absent
Mahoney	Nay
Mansfield	Aye
Martin	Nay
McCarvel	Nay
McDonough	Nay
McKeon	Absent
McNeil	Nay
Melvin	Aye
Monroe	Absent
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Nay
Romney	Nay
Rygg	Nay
Scanlin	Nay
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Nay
Studer	Aye
Sullivan	Nay
Swanberg	Nay
Toole	Aye
Van Buskirk	Nay
Vermillion	Absent
Wagner	Aye
Ward	Nay
Warden	Absent
Wilson	Nay
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. Chairman, 60 delegates voting Aye, 27 voting No.

CHAIRMAN GRAYBILL: 60 having voted Aye and 27 having voted No, Mr. Ask's motion is presumed by the Chair to have passed and will be added to the instructions. Mr. Swanberg, since it does essentially the same thing in a negative manner as yours, the Chair rules that yours is lost by that.

Now, Mr. Schiltz, do you want to move that when this committee does arise and report, after having had under consideration the ballot proposed by the Style and Drafting Committee, that we recommend the same be adopted?

DELEGATE SCHILTZ: I make that motion, Mr. Chairman, as amended.

CHAIRMAN GRAYBILL: As amended. All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

CHAIRMAN GRAYBILL: It's adopted as amended. Now, members of the body, we have before us on—we'll set that aside on General Orders before reporting, and on General Orders in the Committee of the Whole, if you'll turn to Article III on General Government, in the proposal given you by the Style and Drafting Committee this morning—the final report of the Style and Drafting Committee—turn to Article III on page 11 and—in fact, turn to Article III on page 13, and it will now be necessary to fit our ballot that Mr. Schiltz moved, that the first Section 9 be deleted and the section—second Section 9 be left in. Isn't that correct, Mr. Schiltz?

DELEGATE SCHILTZ: That's correct, Mr. Chairman.

CHAIRMAN GRAYBILL: All right, the issue, then, is on—would you make a motion that the first Section 9 be deleted, Mr. Schiltz?

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does rise and report, after having had under consideration Article III, General Government, Style and Drafting Committee Final Report, that the section—the first Section 9, being lines 12 through 15 be deleted and that the article be adopted as amended.

CHAIRMAN GRAYBILL: Well, the Chair will strike the last part of your thing. I'm going to make two motions out of it. I want to adopt it after it's deleted. So we're just voting on the deletion. Does anyone want a roll call vote?

(No response)

CHAIRMAN GRAYBILL: All right. All in favor of deleting the first Section 9, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: No.

CHAIRMAN GRAYBILL: It's approved. Now, will you put the—

DELEGATE SCHILTZ: Now Mr. Chairman, I move when this committee does arise and report, after having had under consideration Article III, General Government, Style and Drafting Final Report, that it recommend the same be adopted as amended.

CHAIRMAN GRAYBILL: The motion is to adopt as for style and drafting, Article III as amended. All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

(No response)

CHAIRMAN GRAYBILL: And it's so ordered. Now, if you'll turn to Article V on page 15—

DELEGATE SCHILTZ: 15 to 22.

CHAIRMAN GRAYBILL: —to 22, the ballot will require that the language on page 15, 16, 17, 18, 19, 20, 21 and 22 be deleted and the language in the second Legislative Article, which is the bicameral article, remain in the Constitution.

DELEGATE SCHILTZ: I make that motion, Mr. Chairman.

CHAIRMAN GRAYBILL: The motion has been made that we delete the unicameral section of the Legislative Article V, being pages 15 to 22 in the Final Report of Style and Drafting. All in favor of that motion, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: All opposed?

DELEGATES: No.

CHAIRMAN GRAYBILL: The Ayes have it, and it's deleted.

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration Article V, the Legislature, Style and Drafting Committee's Final Report, it recommend the same be adopted as amended.

CHAIRMAN GRAYBILL: Very well, you're now voting that pages 23 through 28, being the bicameral form of the Legislature—Legislative Article—be left in the Constitution. So many as are in favor of Article V for style and drafting, bicameral, pages 23 to 28, vote Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

CHAIRMAN GRAYBILL: The Ayes have it, and it's adopted.

DELEGATE SCHILTZ: Mr. Chairman, did you want to do third reading on those now?

CHAIRMAN GRAYBILL: Well, we want to move to Section 5—to 5, yes—I'm not sure we want to do that before we go to—well, let's see—I think we need to go to your adoption schedule. Is it revised, or is it good anymore?

DELEGATE SCHILTZ: The revised adoption schedule works, yes.

CHAIRMAN GRAYBILL: Very well. Members of the body, if you'll turn to the revised adoption schedule—it's page—two pages long. I think the clerk had better read it and we'd better read along. Will the clerk please read the revised adoption schedule on General Orders, Committee of the Whole. Don't read the word "revised"; just start with the word "adoption".

CLERK HANSON: "Adoption schedule. These schedule provisions are part of this Constitution only for the limited purposes of determining whether this Constitution has been adopted, determining what changes result from the vote on each of the separately submitted issues, and establishing the general effective date of this Constitution. No provision of this schedule shall be published unless it becomes part of the Constitution as the result of the adoption of a separately submitted provision. Section 1. This Constitution, if approved by a majority of those voting at the election as provided by the Constitution of 1889, shall take effect on July 1st, 1973, except as otherwise provided in Sections 1 and 2 of the Transition Schedule. The Constitution of 1889, as amended, shall thereafter be of no effect. Section 2, subsection 1. If separate issue 2-A concerning the unicameral form of the Legislature is approved by a majority of those voting at the election and if proposed Constitution is approved by the electors, then: sub sub. (a) Article V, The Legislature, shall be deleted and the following substituted therefore: Insert unicameral article in full here. Subsubsection (b). The words "of each house" are deleted from subsection 2 of Section 6 and from Section 8, Article VIII, Revenue and Finance. Subsubsection (c). The word "Legislature" is substituted for "Senate" in subsections 1, 2 and 4 of Section 8, Article VI, The Executive, and in subsections 1 and 2 of Section 8, Article VII, the Judiciary. Subsection 2. If separate issue 2-B concerning the bicameral form of the Legislature is approved by the electors and if the proposed Constitution is approved by the electors, then Article V, The Legislature, shall be retained. Section 3, subsection 1. If separate issue 3-A is approved by a majority of those voting at the election and if the proposed Constitution is approved by the electors, then Section 9 of Article III, General Government, shall be retained. Subsection 2. If separate issue 3-B is approved by the electors and if the proposed Constitution is approved by the electors, then Section 9 shall be deleted from Article III, General Government, and the following substituted therefor: 'Section 9, Gambling. All forms of gambling, lotteries, and gift enterprises are prohibited.'"

DELEGATE SCHILTZ: That will have to be changed.

CLERK HANSON: "Section 4. If separate issue 4-B is approved by a majority of those voting at the election and if the proposed Constitution is approved by the electors, then there shall be added to Section 28, Article II, Declaration of Rights, the following sentence: 'Death shall not be prescribed as a penalty for any crime against the state' and there shall be deleted from Section 21 of the same article the following: 'except for capital offenses, when the proof is evident or the presumption great.'" Mr. Chairman, adoption schedule.

DELEGATE SCHILTZ: Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: I move to amend—we don't have numbered paper here, so—

CHAIRMAN GRAYBILL: Section 3 on page 2.

DELEGATE SCHILTZ: Section 3, sub. 2, on page 2, by deleting the words "9. Gambling. All forms of gambling, lotteries, and gift enterprises are prohibited" and inserting in lieu thereof the words on page 13 of Style and Drafting report, which are lines 16 and—No—

CHAIRMAN GRAYBILL: What's—

DELEGATE SCHILTZ: Section 9—Well, it would be lines 12 through 15 on page 13 of Style and Drafting's report.

CHAIRMAN GRAYBILL: What does it say? Except as what?

DELEGATE SCHILTZ: It says: "Section 9. Gambling. All forms of gambling, lotteries, and gift enterprises are prohibited unless authorized by acts of the Legislature or by the people through initiative or referendum."

CHAIRMAN GRAYBILL: "—unless authorized by acts of the Legislature or the people"—by what—?—"initiative or referendum". Or "the people" by what?

DELEGATE SCHILTZ: Well, it—let me see—"unless prohibited"—"unless authorized by acts of the Legislature or by the people through initiative or referendum".

CHAIRMAN GRAYBILL: All right, now, this change is necessary because of what we did in voting for Mr. Harper's amendment.

DELEGATE SCHILTZ: Right.

CHAIRMAN GRAYBILL: And I'd like you also to move—you see, it's now going to be separate item 3-A that they must vote for, so up on line—the top line there, sub. 2—"If separate issue 3-A is approved"—because 3-A will be for allowing the people, right?

DELEGATE SCHILTZ: Well, now, I'll have to think about that a minute.

CHAIRMAN GRAYBILL: 3-B is against.

DELEGATE SCHILTZ: Yes, that's right, that's right.

CHAIRMAN GRAYBILL: So the line has to be: "If separate issue 3-A is approved by the electors", then you put in this larger language that you have just read.

DELEGATE SCHILTZ: That's right.

CHAIRMAN GRAYBILL: All right. Now, does everyone understand the change?

DELEGATE SCHILTZ: Mr. Chairman, I would like to make another amendment. At the top of that page, under—after the words "The Judiciary" and we have a subsection 2—

CHAIRMAN GRAYBILL: Right.

DELEGATE SCHILTZ: —we say: "If separate issue 2-B concerning the bicameral form of the Legislature is approved by the electors"—

CHAIRMAN GRAYBILL: Well, wait a minute, Mr. Schiltz. I'm going to take these one at a time. People have to know what they're doing here.

DELEGATE SCHILTZ: Oh, I'm sorry.

CHAIRMAN GRAYBILL: All right. Now, we are on sub. 2—Section 3, sub. 2, in the middle of the second page, and it will read: "If separate issue 3-A is approved"—and then it will go on—and instead of the quoted language it will have the longer quoted language, which is "all forms of gambling," and so forth "are prohibited unless authorized by the Legislature or by the people by initiative"—or "through initiative or referendum" —the longer language. Now, does everyone understand that we have to change that because of the Harper amendment? All right, are you ready to vote on that? Do we need to discuss that, Mr. Harper?

DELEGATE HARPER: No. Do you want also, at this time—are you going to put subsection 1 of Section 3 separately? Doesn't the 3-A need to be changed to 3-B? Just—in other words you change—

CHAIRMAN GRAYBILL: Where? Where are you?

DELEGATE HARPER: In the one you just read, subsection 2 of Section 3—

DELEGATE SCHILTZ: That's right.

DELEGATE HARPER: —you changed 3-B to 3-A. Now, you need to change 3-A to 3-B in the paragraph just above it, if you want to do that now or—I just called it to your attention.

CHAIRMAN GRAYBILL: I see it. Yes, that's got to be 3-B. So, on line—up there where it says Section 3, number 1, it will say: "If separate issue 3-B."

Mr. Davis.

DELEGATE DAVIS: I'm—Mr. President, I'm wondering about that. It seems like the way the Constitution now reads, if you don't get a majority for or against gambling—in other words, if you don't get your 50 percent plus one, then separate 3-A still stays in, regardless of whether it's approved by a majority. So wouldn't the language be all right if you put in Section 3: "1. If separate issue 3-A is not approved by a majority of those voting at the election, if the proposed Constitution is approved, then Section 9, Article III, shall be retained"? Similarly up under your Judiciary.

CHAIRMAN GRAYBILL: I think, Mr. Davis that's—you see, what you're doing is, you have to cover 3-B somewhere and you're not going to cover 3-B at all, and if 3-B is approved by a majority, then the Section 9 that we just put in stays.

DELEGATE DAVIS: But if 3-B isn't approved by a majority—

CHAIRMAN GRAYBILL: Then it stays anyway.

DELEGATE DAVIS: Yes, it stays anyway.

CHAIRMAN GRAYBILL: Right.

DELEGATE DAVIS: Right. If the other one doesn't. All right.

CHAIRMAN GRAYBILL: Yeah. All right. Now, these amendments changing 3-A to 3-B and changing 3-B to 3-A and adding the extra language onto the Section 9 that would substitute are all that's necessary to effectuate Mr. Harper's amendment.

Mr. McDonough.

DELEGATE McDONOUGH: Mr. President, I don't think we really need Section 3, subsection 1, under these circumstances.

CHAIRMAN GRAYBILL: Well—

DELEGATE McDONOUGH: Because then you're saying if 3-B is approved by a majority of the vote, it's retained. Well, it's retained anyway, whether or not—

CHAIRMAN GRAYBILL: Well, that's right, but it also is true if it's in there and it explains what happens to 3-B, and the same is true on the page before on this other one, so—
Mr. Schiltz.

DELEGATE SCHILTZ: I would agree with Mr. McDonough. I was going to make a motion—You see, they're both in the Constitution, and if the Constitution is approved—

CHAIRMAN GRAYBILL: All right. Do you want to strike Section 3, sub. 1, and restyle 2, sub. 1?

DELEGATE SCHILTZ: No, not at all—not altogether. I would strike the first line and three-fourths, so that we make a capital "I" on the "if", so that it reads, then: "If the proposed Constitution is approved by the electors, then Section 9 of Article III, General Government, shall be retained."

CHAIRMAN GRAYBILL: All right. Now, this still has the effect of effectuating the Harper amendment, right?

DELEGATE SCHILTZ: That's right.

CHAIRMAN GRAYBILL: All right, we'll allow that amendment, so that 1 now becomes: "If the proposed Constitution is approved, then Section 9"—and so forth—"shall be retained." 2 will read: "If section—separate issue 3-A", with this other language. Now, with all of those amendments in there, is everybody happy?
(No response)

CHAIRMAN GRAYBILL: I'd like a motion approving section—the—approving this part for style—Section 3.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration Section 3 of the adoption schedule, it recommend the same be adopted as amended.

CHAIRMAN GRAYBILL: All in favor of approving Section 3 for style, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: So ordered. All right.

DELEGATE SCHILTZ: Now, Mr. Chairman, for the same reason, on the first line and three-fourths of the—of this same page: "If separate issues 2-B concerning the bicameral form of the Legislature is approved by the electors and"—I would ask that that be struck and that a capital "I" "If" be inserted—and then we continue on with a capital "I" "If".

CHAIRMAN GRAYBILL: All right. All in favor of amending the top of page 2, sub. 2, so that it says: "Sub. 2. If the proposed Constitution is approved by the electors"—then Article IV, Legislature, shall be retained. All in favor of that, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Just a minute—
Mr. Driscoll.

DELEGATE DRISCOLL: Mr. Chairman, I'm confused—a little more confused than I usually am. It seems to me that what we've just done in Section 3, when we state: "If the proposed Constitution is approved by the electors, then Section 9 of Article III, General Government, shall be retained—"

CHAIRMAN GRAYBILL: Yes, that's wrong, isn't it? That's wrong. You're right, that's wrong. We finally got Mr. McDonough (Laughter) because, Mr. McDonough—

DELEGATE McDONOUGH: No, you haven't; I moved to delete the whole section.

CHAIRMAN GRAYBILL: Oh, I guess we've got Mr. Schiltz again.

DELEGATE SCHILTZ: You got me again, but—

CHAIRMAN GRAYBILL: Mr. Davis.

DELEGATE DAVIS: Well, it still seems to me that if you put—if separate issue 3-B is not approved by a majority of the voting and if the Constitution is approved, then 9 stays in.

DELEGATE SCHILTZ: Well, that's what I think, Mr. Chairman.

DELEGATE DAVIS: And I think you do the same thing on the Judiciary. If the unicameral is not approved, then the other stays in. In other words, just change the top of the page under Judiciary to: "If separate issue 2 A concerning the unicameral form of Legislature is not approved by the electors and if the proposed Constitution is approved by the electors, then Article V, The Legislature, shall be retained." And under Section 3 "1. If separate issue 3-B is not approved by the majority of those voting at election and if the proposed Constitution is approved by the electors, then Section 9 stays in."

CHAIRMAN GRAYBILL: All right, now, Mr. Davis, do you agree with me that we should have just changed it to 3-B in Section 3?

DELEGATE DAVIS: To 3-B, and then after "is" add a "not"—"if 3-B is not approved".

CHAIRMAN GRAYBILL: Oh.

DELEGATE DAVIS: Well, where are we now? Which is that—? All right, on Section 2, now, it's a separate issue—is 3-A—is that the separate issue? All right, then, if you leave the first part—If separate issue 3-A is not approved, then you leave it in; and if it is approved in number 2, then you take it out and make the substitution. Does that make sense or not?

CHAIRMAN GRAYBILL: I think you can do it either way—3-A is not approved or 3-B is approved.

Mr. Schiltz, which do you want?

DELEGATE SCHILTZ: Well, Mr. Chairman, I would like to say that perhaps we're having a misunderstanding here, and I'm sure we are, but it seems to me that if the proposed Constitution is approved by the electors, then the Article V, as we have amended it, shall be retained.

CHAIRMAN GRAYBILL: No, then you're not giving the other guy a chance.

DELEGATE SCHILTZ: No. That's right, you're not—you aren't giving it to that other one. I agree.

CHAIRMAN GRAYBILL: You're back with Mr. Choate. All right, now, how do you want it, Mr. Schiltz? Do you want it "If separate issue 3-A is not approved", or do you want it "If separate issue 3-B is approved"?

DELEGATE SCHILTZ: Oh, I don't think it matters too much.

CHAIRMAN GRAYBILL: Probably it's better "If separate issue 3-A is not approved".

DELEGATE SCHILTZ: Now you're in Section 3, sub. 1?

CHAIRMAN GRAYBILL: Yes.

DELEGATE SCHILTZ: All right.

CHAIRMAN GRAYBILL: And then we have to leave that language in. Now, I take it that we may reconsider Section 3 of this second page. All in favor of reconsidering, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No. (No response)

CHAIRMAN GRAYBILL: Okay. Now, Mr. Davis, you will move that Section 3, sub. 1, read: "If separate issue 3-A is not approved by a majority of those voting at the election and if the proposed Constitution is approved by the electors, then Section 9 of Article III, General Government, shall be retained." Is that your motion?

DELEGATE DAVIS: I so move.

CHAIRMAN GRAYBILL: All right; all in favor of Mr. Davis' motion, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No. (No response)

CHAIRMAN GRAYBILL: All right, now, that's all in again, with "3-A" and "not". All right. That's approved for style. Now we're back up on the words after "The Judiciary", sub. 2. And that should read what, Mr. Davis?

DELEGATE DAVIS: "If separate issue 2-A concerning the unicameral form of Legislature is not approved"—

CHAIRMAN GRAYBILL: "—2-A is not approved"—

DELEGATE DAVIS: "—and the Constitution passes", then 2-B is automatically in, whether it passes or not.

CHAIRMAN GRAYBILL: All right, now, Mr. Davis, we did never adopt the other one, so we're back on it. If separate issue—Mr. Davis moves that it say: "Sub. 2. If separate issue 2-A concerning the bicameral form of the Legislature is not approved by the electors and if the proposed Constitution is approved by the electors, then Article V, The Legislature, shall be retained." Is that your motion?

DELEGATE DAVIS: It's my motion, except Mr. President should substitute "unicameral" for "bicameral" there.

CHAIRMAN GRAYBILL: Concerning the unicameral.

DELEGATE DAVIS: Yes.

CHAIRMAN GRAYBILL: All right, I'll restate it for the transcript: "If separate issue 2-A concerning the unicameral form of the Legislature is not approved by the electors and if the proposed Constitution is approved by the electors, then Article V, The Legislature, shall be retained." All in favor of Mr. Davis' motion, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?
(No response)

CHAIRMAN GRAYBILL: All right, that's taken care of. Now, the Chair would like to raise the question of—I'd like you to read Section 4 again, gentlemen. Down here where it says: "and there shall be deleted from Section 21"—Mr. Dahood, have we got in there all—at the present time, that language "except for capital offenses, when the proof is evident or the presumption is great"?

DELEGATE SCHILTZ: Mr. Chairman, he isn't here, but I know about that. It's on pages 6 and 7 under Section 21, and we ran across that in our work.

CHAIRMAN GRAYBILL: What's that, Bill of Rights?

DELEGATE SCHILTZ: That's Bill of Rights, and its Bail, and it's over on page 7. It says: "All persons shall be bailable by sufficient sureties, except for capital offenses." Now, if capital punishment is abolished, why, that wouldn't obtain, and I have a flag on that to remind the committee of it.

CHAIRMAN GRAYBILL: Mr. Harbaugh.

DELEGATE HARBAUGH: I'd like to ask a question, Mr. Schiltz.

DELEGATE SCHILTZ: Yes, I yield.

DELEGATE HARBAUGH: I fail to understand why it's necessary to delete that. It seems to me it has no relationship to the capital punishment issue. We're talking about bail here, not capital punishment.

DELEGATE SCHILTZ: What we're talking about, though, is if—Mr. Dahood, do you understand what we're talking about?

DELEGATE DAHOOD: No, I understand what you're talking about, and your position is correct.

DELEGATE SCHILTZ: You see, if capital offenses—there won't be capital offenses anymore. Capital punishment and capital offenses are coequal. You can only execute a person for a capital offense, so then capital offenses are—would no longer obtain in Section 21.

CHAIRMAN GRAYBILL: Mr. Harbaugh, a felony is different than a capital offense, is what they're saying, and a capital offense is an offense punishable by death. There being no offenses punishable by death anymore, we don't need that language. Very well, the Chair stands corrected, and I think Section 4 is okay.

Mr. Harper.

DELEGATE HARPER: Mr. Chairman, I don't want to hold up the works, but will we now be saying under Section 21, Bail, that all offenses are bailable, that there are no—for example, heinous crimes—murders, anything else—that aren't bailable?

CHAIRMAN GRAYBILL: That's what we'll be saying.

DELEGATE HARPER: I can see being—I can see Mr. Harbaugh's point, I think. I can see us being against capital punishment, but I don't necessarily want to lower my estimation of our—how heinous a capital offense might be. Now, if you used the word "capital"—again, the wrong way—but I mean the same kind of crime.

DELEGATE DAVIS: Well, Mr. President—

CHAIRMAN GRAYBILL: Mr. Davis.

DELEGATE DAVIS: It seems like, to be consistent, you just about have to adopt this. When we adopted the Bill of Rights, we've already adopted the fact that all offenses are bailable except capital offenses, so we either have to go back—if the death penalty passes and they delete the death penalty, then you'd have to go back and try to work some wording in saying what sort of offenses. So I think we're at the stage now where you just about have to go with it and every offense is bailable, but the court then can adjust that as to amount. But, as a matter of fact, the federal government has pretty near held that anyway, haven't they? They let Angela out.

CHAIRMAN GRAYBILL: Mr. Hanson.

DELEGATE ROD HANSON: Mr. President, would Mr. Davis yield to a question?

CHAIRMAN GRAYBILL: Mr. Davis?

DELEGATE ROD HANSON: Carl, is there any statutes on this thing—say that this is deleted from the Constitution, is there any statutes that may apply, and if not—let me make it a two-part question—and if not, then wouldn't the Legislature be free to pass such statutes?

CHAIRMAN GRAYBILL: Mr. Davis, do you want to answer?

DELEGATE DAVIS: I'm unable to answer that right at the moment. I was going to look to see what's in our present Constitution, but I think this is identical to the present Constitution, isn't it?

CHAIRMAN GRAYBILL: I think Mr. Brown is going to tell you that if you change the Constitution, you've changed the statute. Isn't that right, Mr. Brown?

DELEGATE BROWN: No, what I was going to say, Mr. President, we're out of order. We are on Style and Drafting, and we can't go back to the Bill of Rights. If the United States Supreme Court says the death penalty is unconstitutional, we'd be back to the old one. I think this discussion is out of order.

CHAIRMAN GRAYBILL: I think you're right, and I think if it's out of order, the last sentence of Section 4 has to be deleted. Now, maybe "capital offenses" should be "former capital offenses", but, Mr. Dahood, we'd be making a substantive change in Bill of Rights.

DELEGATE DAHOOD: Perhaps I can explain to the delegates. We considered this proposition in drafting the Bill of Rights. We saw no problem. We appreciated the fact death penalty might be a separate issue. Once it becomes a separate issue and it's voted upon—if it's—if abolition of the death penalty is voted upon, that particular phrase will then become inoperative. It's really no problem. California just had the problem. When they abolished the death penalty, they merely ruled that that particular portion in their constitution was not operative, and they granted bail to Angela Davis. We see no real problem at all.

CHAIRMAN GRAYBILL: Well, don't you agree, then, that we ought to delete this business about deleting it in the Bill of Rights, because it seems to me—

DELEGATE DAHOOD: If we're going to follow the strict rule with respect to substantive matters, yes. I was not going to stand and object to it, because it's going to bring about the result that I think we're going to have automatically anyway.

CHAIRMAN GRAYBILL: Mr. Brown.

DELEGATE BROWN: I didn't mean that we couldn't put this in Section 4. And it probably should be in there; it would make a clearer Constitution. What I was trying to stop was a discussion about getting back and start amending the Bill of Rights, but I don't have any objection to Section 4 staying in. It will clarify the Constitution.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, later on in the Transition Schedule you'll see a section that authorizes the attorney general, once a year, to review the Constitution and delete anything that then must be deleted, and that's the reason for this having been in there.

CHAIRMAN GRAYBILL: All right, so it's okay to leave it in there, right?

DELEGATE SCHILTZ: Yes.

CHAIRMAN GRAYBILL: Very well, I think we've amended the adoption schedule sufficiently. Do you want to move the entire adoption schedule, Mr.—

DELEGATE SCHILTZ: Yes.

CHAIRMAN GRAYBILL: Just a minute.

Mr. Heliker.

DELEGATE HELIKER: Mr. Chairman, I move to amend Section 2, subsection 1, subsub. (c), at the top of unnumbered page 2—following the word "The Judiciary", change the period to a comma and add the following words: "and in subsection 1 of Section 2, Article XII, Departments and Institutions".

DELEGATE SCHILTZ: Could you do that a little slower, please?

DELEGATE HELIKER: Yes. Add, after inserting a comma, "and in subsection 1 of Section 2, Article XII, Departments and Institutions", where you have provision for a Commissioner of Labor confirmed by the Senate.

DELEGATE SCHILTZ: Can you give—could I ask for the page where that is, please.

CHAIRMAN GRAYBILL: Does this—is this after the period, where it says "Judiciary", or is this in the next paragraph, Mr.—

DELEGATE HELIKER: After the period.

CHAIRMAN GRAYBILL: After the word "Judiciary, period"?

DELEGATE HELIKER: Right. It's just adding one more section where you have to change "Senate" to "Legislature".

CHAIRMAN GRAYBILL: In other words, there's another place that you change "Senate" to "Legislature".

DELEGATE HELIKER: Mr. Chairman, on page 57.

DELEGATE SCHILTZ: —57, George?

DELEGATE HELIKER: Line 16.

CHAIRMAN GRAYBILL: Yes. Are you with us, Mr. Schiltz?

DELEGATE SCHILTZ: I have now found you. Now, I've got to get back to—

CHAIRMAN GRAYBILL: The computer must have goofed.

DELEGATE SCHILTZ: Yeah, this is tough work.

CHAIRMAN GRAYBILL: Is it all right to say "the Judiciary, and in subsection 1 of Section 2 of the article on Departments and Institutions"?

DELEGATE SCHILTZ: Well, I think we ought to be uniform and say the section numbers that he mentioned, and I think maybe he did, but I'll make sure—the subsections he numbered of—Section 2, Article XII, Departments and Institutions.

CHAIRMAN GRAYBILL: Okay, and that goes in right after the word "Judiciary comma".

DELEGATE SCHILTZ: Right.

CHAIRMAN GRAYBILL: Mr. Delaney.

DELEGATE DELANEY: Mr. Chairman, I believe we have a Senate regardless of whether we have a bicameral or a unicameral, and this was, I think, the intention for these commissioners to be appointed by the Governor, then approved by the Senate—regardless of whether it was a unicameral or a bicameral—and I don't believe it need—should be changed.

CHAIRMAN GRAYBILL: Yeah, I think you may be right. What do you think of that, Mr. Heliker?

DELEGATE HELIKER: Well, isn't this the same thing in all cases?

DELEGATE SCHILTZ: Well, that's what I'm now checking out.

CHAIRMAN GRAYBILL: In other words, there's a—

DELEGATE SCHILTZ: Line 13, page 42—

CHAIRMAN GRAYBILL: —in other words, what's wrong with having the commissioner confirmed by the Senate? There's going to be a Senate, whether it's a unicameral or a bicameral Senate.

DELEGATE HELIKER: Well, I say again, aren't these all the same?

CHAIRMAN GRAYBILL: Well, that's what Mr. Schiltz is checking.

DELEGATE SCHILTZ: Well, no, this is—just applies to the unicameral situation, you see. No, wait—I've got to work on this.

CHAIRMAN GRAYBILL: Let's see, Section 8, 1, 2 and 4. They are confirmations. I don't see why you need them—looks to me like subsection (c) is wrong, Mr. Schiltz, because at least the one on the Executive Article, subsections 1, 2 and 4 are concerning confirmation of appointments, and there's no reason why that can't still stay "Senate".

DELEGATE SCHILTZ: Well, I guess that's right.

CHAIRMAN GRAYBILL: All right, now, let's look at Judiciary.

DELEGATE HELIKER: Mr. Chairman.

CHAIRMAN GRAYBILL: Let's just check it out here—Judiciary—VIII, 1 and 2. Yeah, that's still to be—for the courts are to be confirmed by the Senate, too, so I think that the problem is that subsection (c) on page 1 is unnecessary, Mr. Schiltz.

DELEGATE SCHILTZ: I think that's right.

CHAIRMAN GRAYBILL: Mr. Garlington, do you have an opinion?

DELEGATE GARLINGTON: I want to point out, Mr. Chairman, that in Section 1 of Article V of the unicameral on page 15, line 4, it is said of the unicameral body that it is "a Legislature". It doesn't call it "a Senate", it calls it "a Legislature".

CHAIRMAN GRAYBILL: It's a Legislature with members called "senators". All right, we either got to take it out or we got to put Mr. Heliker's in.

DELEGATE SCHILTZ: No, I think Mr. Garlington is right. We should put—I got on that a minute ago—and we should put Mr. Heliker's in.

CHAIRMAN GRAYBILL: All right, the motion is to add to the top of the second page, after the word "Judiciary", a comma and "subsection 1 of Section 2, Article XII, Departments and Institutions period". All in favor of doing that, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?
(No response)

CHAIRMAN GRAYBILL: It's adopted.
Now, Mr. Schiltz, do you think you're ready to move the adoption schedule as a whole?

DELEGATE SCHILTZ: I do. Mr. Chairman, I move when this Committee does arise and report, after having had under consideration the Adoption Schedule, Style and Drafting Final Report, it recommend the same be adopted.

CHAIRMAN GRAYBILL: So many as are in favor of adopting the Adoption Schedule as a whole, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: So ordered. Now, we'll look at the Transition Schedule, which was in those papers you had yesterday and you probably should take apart—Transition Schedule.

DELEGATE SCHILTZ: It's the last page of the book, Mr. Chairman.

CHAIRMAN GRAYBILL: It is also in the book. If you have stricken—in your book you should have stricken the official ballot and you should have stricken the Adoption Schedule. It's the third from the last page in the book, and the Transition Schedule is identical there and on the pages that we had yesterday. Will the clerk please read the Transition Schedule so we can all become acquainted with it.

CLERK HANSON: "The report of the Committee on Style, Drafting, Transition and Submission, Final Report. Transition Schedule. The following provisions shall remain part of this Constitution until their terms have been exhausted"—"been executed".

CHAIRMAN GRAYBILL: Executed. (Laughter)

CLERK HANSON: "Once each year, the Attorney General shall review the following provisions and certify to the Secretary of State which, if any, have been executed. Any provisions so certified shall thereafter be removed from this schedule and no longer published as part of this Constitution. Section 1. Accelerated effective date; Section 2. Delayed effective date; Section 3. Prospective operation of declaration of rights; Section 4. Terms of Judiciary; Section 5. Terms of Legislators; Section 6. General transition. Section 1. Accelerated effective date. Section 14. Districting and apportionment, of Article V, The Legislature, shall be effective January 1, 1973. Section 2. Delayed effective date. The provisions of these—of

Sections 1, 2 and 3 of Article V, Legislature, shall not become effective until the date the first redistricting and reapportionment plan becomes law. Section 3. Prospective operation of declaration of rights. Any rights, procedural or substantive, created for the first time by Article II shall be prospective and not retroactive. Section 4. Terms of the Judiciary. Supreme Court justices, District Court judges, and justices of the peace holding office when this Constitution becomes effective shall serve the terms for which they were elected or appointed. Section 5. Terms of Legislators. Subsection 1. The terms of all legislators elected before the effective date of this Constitution shall end on December 31 of the year in which the first redistricting and reapportionment plan becomes law. Subsection 2. The senators first elected under this Constitution shall draw lots to establish a term of 2 years for one-half of their number. Section 6. General transition. Subsection 1. The rights and duties of all public bodies shall remain as if this Constitution had not been adopted, with the exception of such changes as are contained in this Constitution. All laws, ordinances, regulations, and rules of court not contrary to or inconsistent with the provisions of this Constitution shall remain in force until they shall expire by their own limitation or shall be altered or repealed pursuant to this Constitution. Subsection 2. The validity of all public and private bonds, debts, and contracts and of all suits, actions, and rights of action shall continue as if no change had taken place. Subsection 3. All officers filing for any office by election or appointment shall continue the duties thereof until their offices shall have been abolished or their successors selected and qualified in accordance with this Constitution or laws enacted pursuant thereto." Mr. Chairman, Transition Schedule.

CHAIRMAN GRAYBILL: All right. Now, there are some amendments to this, but they are all written and they can probably be taken care of easily.

Do you want to make a statement before you take up your first amendment, Mr. Schiltz?

DELEGATE SCHILTZ: Well, Mr. Chairman, the Transition Schedule, as you can tell from the reading we just had, is in order to have some continuity between the old Constitution and the new one and for an orderly transfer from that old Constitution to a new one, and I don't think I need to say any more than that.

CHAIRMAN GRAYBILL: All right, Mr. Schiltz, you have an amendment up here. May we read it?

DELEGATE SCHILTZ: Please.

CLERK HANSON: "Transition Schedule. Mr. Chairman. I move to amend Section 6, subsection 3, of the Transition Schedule by deleting the word 'there', after the word 'until', and adding, between 'until' and 'offices', the following: 'the end of the terms to which they were appointed or elected, and until their'. Signed: Schiltz."

DELEGATE SCHILTZ: Mr. Chairman.

CHAIRMAN GRAYBILL: This is in the last subsection, subsection 3, and the amendment deletes the word "their", after the word "until"—that's in the second line—and adds the following phrase: "the end of the terms to which they have been appointed or elected, and until their". Okay.

Now, Mr. Schiltz, do you want to discuss that?

DELEGATE SCHILTZ: Briefly, Mr. Chairman. This—there was some question in the minds of the committee and other people whether the secretary—or the treasurer and the clerk of the Supreme Court might be terminated prior to the time when their elected terms ran. In other words, without this language it was possible the Legislature could abolish their job and they would be out of business, so that language was put in there for that purpose.

CHAIRMAN GRAYBILL: It merely allows them to serve out the terms for which they're now elected, is that right?

DELEGATE SCHILTZ: That's correct.

CHAIRMAN GRAYBILL: All right, is there any discussion?

Mr. Mahoney.

DELEGATE MAHONEY: In this case and the case of the treasurer—and if he was elected this year—he would be out at the end of this year under this, wouldn't he?

CHAIRMAN GRAYBILL: Mr. McDonough.

DELEGATE McDONOUGH: I would like to ask Mr. Schiltz a question. Would he yield, please?

DELEGATE SCHILTZ: I yield.

DELEGATE McDONOUGH: Does this

affect the appointed boards that might be abolished by this Constitution—or changed? Would those appointed boards that are public office still remain until their term expires?

DELEGATE SCHILTZ: Well, I assume it would, Mr. McDonough. I don't know if there are any, but it's appointments that are appointed for a definite term and that's—but, of course, what we already had in there affected those same people to the same extent. This language just makes sure that they can serve to the end of their elected or appointed term.

CHAIRMAN GRAYBILL: Is there further discussion?

(No response)

CHAIRMAN GRAYBILL: All in favor of Mr Schiltz's amendment, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

(No response)

CHAIRMAN GRAYBILL: It's adopted. All right. Mr. Loendorf has an amendment. Do you want to read it—do you want us to read it, Mr. Loendorf?

(Chairman Graybill had pronounced Delegate Loendorf's name as Low-en-dorf—whereas it is correctly pronounced as Lynndorf)

DELEGATE LOENDORF: Yes. Mr. Redbill. (Laughter)

CHAIRMAN GRAYBILL: Mr. Loendorf.

DELEGATE LOENDORF: Yes, Mr. Chairman, please.

CHAIRMAN GRAYBILL: We'll read it wrong if you aren't careful. (Laughter) Okay. Excuse me, Mr. Loendorf. It would have been easier, though, if they'd spelled it differently, wouldn't it? (Laughter)

DELEGATE LOENDORF: Yes.

CHAIRMAN GRAYBILL: Okay, Mr. Loendorf's amendment.

CLERK HANSON: "Transition schedule. Mr Chairman. I move to amend Section 1 of the Transition Schedule by deleting, on the first line of Section 1, the word 'Section' and inserting in lieu thereof the following: 'Section 6 (session) and'. Signed: Loendorf."

CHAIRMAN GRAYBILL: That's on Section 1, and you want to delete the word "Section"?

DELEGATE LOENDORF: What it does, Mr. Chairman, it simply—I don't really delete the word "Section"; I delete it and replace it with the word "Sections"—the plural.

CHAIRMAN GRAYBILL: Oh, 6 and 14, is that what you wanted to say?

DELEGATE LOENDORF: Yes, Mr. Chairman.

CHAIRMAN GRAYBILL: "—Sections 6 and 14", instead of just Section 14. All right, you may explain it.

DELEGATE LOENDORF: Okay. Very briefly, Mr. Chairman, this was an amendment approved by Style and Drafting this morning. However, we did not have time to have it typed and included as a part of the Transition Schedule here. Therefore, it's necessary to make this amendment from the floor. The purpose is—as you know, our Legislature now has more work than it can handle in 60 days. We're about to drop on it, if this Constitution passes, much more work. In other words, at this next session they'll have to take care of implementing legislation. By adopting this amendment, you merely allow Section 6 to become effective next January 1, rather than on July 1, 1973. In other words, it becomes effective 6 months earlier, and how this will help the Legislature is this: they can meet 60 legislative days, rather than 60 continuous days. You will relieve them from that pressure-cooker process they're in now, and you'll give them more time to consider not only their regular work but the additional work we're creating for them. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Any discussion?

(No response)

CHAIRMAN GRAYBILL: All in favor of Mr. Loendorf's amendment, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

(No response)

CHAIRMAN GRAYBILL: It's adopted. All right, we have another one up here. Mr. Kelleher, do you want us to read yours? Pardon? May we read yours?

DELEGATE KELLEHER: (Inaudible)

CLERK HANSON: "Transition Schedule. Mr. Chairman. I move to amend Section 4, the Transition Schedule, by deleting the words 'become effective' and inserting in lieu thereof the following new words: 'is ratified'—so that the section reads as follows: 'Section 4—Terms of Judiciary. Supreme Court justices, District Court judges, and judges of the peace holding office when this Constitution is ratified shall serve the terms for which they were elected or appointed.' Signed: Heliker—Kelleher." Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Kelleher, do you want to explain that.

DELEGATE KELLEHER: All 28 district judges are up for reelection this year, and this would mean that they would get the 6-year terms instead of the 4-year terms.

CHAIRMAN GRAYBILL: Mr. Schiltz, do you have any comment?

DELEGATE SCHILTZ: Well, the only thing is, we've used the words "become effective" all throughout the Transition Schedule and the Adoption Schedule; we've got an effective date which uses that sort of terminology. Up in Section 1, we talk about "shall be effective January 1, 1973". That's—it's our terminology. I don't see either—how "is ratified" gives them any longer term than "becomes effective". I don't know—I'd like to have it explained.

DELEGATE KELLEHER: Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Kelleher.

DELEGATE KELLEHER: I assume that if it's ratified, that would be June the 6th. That would be the date of ratification, and they'll be running in November for terms beginning next January.

CHAIRMAN GRAYBILL: I guess—the Constitution doesn't become effective, Mr. Schiltz, until January 1, 1973. Is that before—

DELEGATE SCHILTZ: No—

CHAIRMAN GRAYBILL: Do their terms come before that?

DELEGATE SCHILTZ: The effective date of the Constitution will be July 1, 1973.

CHAIRMAN GRAYBILL: I see.

DELEGATE SCHILTZ: And I see now what Mr. Kelleher is getting at. I'm not—

CHAIRMAN GRAYBILL: Would you rather change it to—"and justices of the peace holding office—shall serve the terms for which they were elected"—or do you want to make it January 1st? Do you want to add that section up above under accelerated effective date?

DELEGATE SCHILTZ: No, I want to stay with what we have, which is "becomes effective". This matter came up in the committee, and we rejected the thought—I see now what it is—and decided that everybody would start after the effective date—and there's just as much reason to apply an accelerated effective date to every officer we have—I don't—and I wouldn't want to fool with it.

CHAIRMAN GRAYBILL: In other words, if you vote for Mr. Kelleher, the judges that run this fall will get a 6-year term; but if you vote for the Style and Drafting Committee, the judges that run this fall get a 4-year term and the next ones will get a 6-year term. That's correct. All right; so many as are in favor of Mr. Kelleher's amendment, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

CHAIRMAN GRAYBILL: The Noes have it, and Mr. Kelleher's is defeated. Very well, are there other amendments? I have no more up here.

(No response)

CHAIRMAN GRAYBILL: If not, Mr. Kelleher— Mr. Schiltz, do you want to move the Transition Schedule as a whole?

DELEGATE SCHILTZ: Mr. Chairman, I move when this committee does arise and report, after having had under consideration the Transition Schedule, Style and Drafting Committee's Final Report, it recommend the same be adopted as amended.

CHAIRMAN GRAYBILL: All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

(No response)

CHAIRMAN GRAYBILL: It's adopted.

Now, Mr. Eskildsen, I'd move that this committee rise and report fully—or whatever you want to do.

DELEGATE ESKILDSEN: Mr. Chairman—

CHAIRMAN GRAYBILL: Just a moment.

Mr. Habedank.

DELEGATE HABEDANK: I may be wrong, but according to my schedule, we never did adopt the Legislative Article, Number III, that we amended. Did that ever get adopted completely?

CHAIRMAN GRAYBILL: Legislative on what?

DELEGATE HABEDANK: Article III, I think it is, by—a roll call vote is required.

CHAIRMAN GRAYBILL: Well, I—we're going to move now to Order of Business Number 6. We have just completed the style and drafting on Sections 5 and—or Article V and Article III, and we're going to VI.

Now, Mr. Romney, for what purpose do you rise?

DELEGATE ROMNEY: Mr. Chairman, I rise to inquire if the sections in the ballot—1, 2, 3 and 4—were individually moved and approved, and if the record shows that?

CHAIRMAN GRAYBILL: No, they were not individually moved, they were—but I'm not sure they're sections. They're divisions. We moved the ballot as a whole on style and drafting.

DELEGATE ROMNEY: Is that all the record needs to show?

CHAIRMAN GRAYBILL: Do you—well, Mr. Schiltz and Mr. Murray, the official ballot is not really sectionalized. Do I have to have a separate motion on each ballot? We did approve each part and then we adopted it, but we didn't—any reason we can't rise and report the ballot as a whole?

DELEGATE SCHILTZ: Well, Mr. Chairman—

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: I don't think the ballot or the adoption schedule will be part of the Constitution, and so I think they are each adopted as a whole, although they're sectionalized. The ballot isn't, but the adoption schedule is.

CHAIRMAN GRAYBILL: Now well, Mr. Schiltz, I didn't get the sense of your message.

DELEGATE SCHILTZ: Well—Well, maybe I was wrong, but I—I didn't—

CHAIRMAN GRAYBILL: All right, let's put it this way. We have now voted, Mr. Romney, on the style and drafting of the ballot and we've adopted it for style and drafting. Now, Mr. Murray, should we move the ballot? We certainly can move III and V to Order of Business 6. Should we move the ballot and this other material to 6 or to 5? Mr. Hanson tells me that there's a rule that says the ballot and this transitional material all goes directly to 6. Is that correct?

DELEGATE MURRAY: Mr. Chairman, Rule 51, I think, requires that all of this material go to Order of Business Number 6.

CHAIRMAN GRAYBILL: "Committee of the Whole consideration of proposed constitutional ballot. The proposal of the Committee on Style shall be considered only as to the form of the proposed Constitution and the form and style of ballot. The report of the Committee of the Whole shall be referred to Order of Business Number 6. The vote on Order of Business Number 6 shall be without debate and be a recorded roll call vote of the delegates." So the rules—that's Rule 51—requires that the Style and Drafting Committee proposal on the Constitution as a whole and the ballot and this other material go directly to Order of Business Number 6. Now, in Order of Business Number 6, we will adopt the two articles individually and we will adopt this other material individually. We can take it separately, but I don't know that we'd take it singly. Is there—

Mr. Murray.

DELEGATE MURRAY: I think that we should move the Adoption Schedule, the Transition Schedule, the Ballot and III and V and take a vote on each one just to cover this.

CHAIRMAN GRAYBILL: Yes. Well, we'll do that, but Mr. Romney's question is, "Do we want to vote separately on parts 1, 2, 3 and 4 of the ballot?"

DELEGATE MURRAY: No, the ballot is considered in its entirety under these rules.

CHAIRMAN GRAYBILL: The ballot is proposed by Style and Drafting as a unit and it's to be considered as a unit. In other words, Mr. Romney, the ruling of—the rules—or the opinion of Mr. Murray and the ruling of the Chair would be that those numbers are not subsections of a ballot, they are distinguishing issues on a ballot, and that the ballot is a unit.

Mr. Romney.

DELEGATE ROMNEY: I do not object to it, but I thought that it not having been done, it was well to discuss it now.

CHAIRMAN GRAYBILL: Right. I think it is a good thing you mentioned it, and we will vote on each of those parts individually when we get to Order of Business Number 6, if that's all right with everybody.

All right, we need to move to rise and report finally, Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. Chairman, I move the Committee of the Whole rise and finally report. (Cheers from the delegates)

CHAIRMAN GRAYBILL: All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

(No response)

CHAIRMAN GRAYBILL: So ordered. And we'll do that promptly for you.

(Proceedings resolved into Convention with President Graybill presiding)

PRESIDENT GRAYBILL: Very well, the clerk will please read the Committee of the Whole report and the signature.

CLERK HANSON: "March 22, 1972. Mr. President. We, your Committee of the Whole, having had under consideration business on General Orders, recommend as follows: that the committee rise and finally report. Signed: Graybill, Chairman."

PRESIDENT GRAYBILL: Is there anyone that would like the Committee of the Whole report read in its entirety?

DELEGATES: No.

PRESIDENT GRAYBILL: Very well.

Mr. Eskildsen, will you move that the Committee of the Whole report be referred to Order of Business Number 6.

DELEGATE ESKILDSEN: Mr. President, I move the Committee of the Whole be adopted and that Proposal Number 3—Proposal Number 5, the Ballot, the Transition Schedule and the Adoption Schedule be placed on Order of Business Number 6.

PRESIDENT GRAYBILL: You have heard the motion. All in favor, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

(No response)

PRESIDENT GRAYBILL: Very well. We're on Order of Business Number 6.

Mr. Eskildsen, do you want to move us to Order of Business Number 6?

DELEGATE ESKILDSEN: Without objection, may we be on Order of Business Number 6?

PRESIDENT GRAYBILL: Is there objection?

(No response)

PRESIDENT GRAYBILL: Very well, we're on Order of Business Number 6. On Order of Business Number 6, the Chair would like to take the balance of the Constitution first, and this morning we passed section—or, I mean, Article III, which is the General Government Article, beginning on page 11 and going through page 13, with the first Section 9 on gambling deleted. So many as shall be in favor of Article III, vote Aye on the voting machines; so many as are opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Please take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Absent
Aronow	Aye
Artz	Aye
Ask	Aye

Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Absent
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Excused
Cate	Absent
Champoux	Absent
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Absent
Davis	Aye
Delaney	Aye
Driscoll	Aye
Drum	Absent
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Absent
Foster	Aye
Furlong	Aye
Garlington	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Nay
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Absent
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Absent
McKeon	Absent
McNeil	Aye
Melvin	Aye
Monroe	Absent
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Absent
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Nay
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. Chairman, 84 delegates voting Aye, 2 voting No.

PRESIDENT GRAYBILL: 84 delegates having voted Aye; and 2 voting No, Article III is adopted. Now, if you'll turn to Article V—and it's the bicameral. Article V, beginning on page 23, continuing through page 28. So many as shall be in favor of Article V, The Bicameral Legislature, vote Aye on the voting machines; so many as are opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, cast the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Absent
Aronow	Absent
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Absent
Brown	Aye
Bugbee	Nay
Burkhardt	Aye
Cain	Aye
Campbell	Excused
Cate	Absent
Champoux	Absent
Choate	Nay
Conover	Aye
Cross	Aye
Dahood	Absent
Davis	Aye
Delaney	Aye
Driscoll	Aye
Drum	Absent
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Absent
Foster	Aye
Furlong	Aye
Garlington	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Nay
Harper	Aye
Harrington	Aye
Heliker	Nay
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Nay
Leuthold	Aye
Loendorf	Aye
Lorello	Absent
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Absent
McNeil	Aye
Melvin	Aye
Monroe	Nay
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Absent
Robinson	Nay
Roeder	Aye
Rollins	Nay
Romney	Aye
Rygg	Aye
Scanlin	Nay
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Absent
Wilson	Aye
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. President, 77 delegates voting Aye, 9 voting No.

PRESIDENT GRAYBILL: 77 delegates having voted Aye and 9 voting No, section—or Article V is adopted. Now, if you'll take the ballot, as amended today, including the amendatory language and including the unicameral-bicameral, part 2, and including the reversal of Harper's on part 3 and including part 4. So many as shall be in favor of the ballot proposal as amended and adopted this afternoon, vote Aye on the voting machines; so many as are opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Absent
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Excused
Cate	Absent
Champoux	Absent
Choate	Nay
Conover	Aye
Cross	Aye
Dahood	Absent
Davis	Aye
Delaney	Aye
Driscoll	Aye
Drum	Absent
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Absent
Foster	Aye
Furlong	Aye
Garlington	Aye
Gysler	Aye
Habedank	Nay
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Nay
Heliker	Nay
Holland	Absent
Jacobsen	Nay
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Nay
Leuthold	Aye
Loendorf	Aye
Lorello	Absent
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Absent
McNeil	Aye
Melvin	Aye
Monroe	Nay
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Aye
Robinson	Nay
Roeder	Aye
Rollins	Nay
Romney	Nay
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Nay
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye

Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. President, 79 delegates voting Aye, 11 voting No.

PRESIDENT GRAYBILL: 79 delegates having voted Aye and 11 No, the Ballot is adopted. Now, if you'll take the Adoption Schedule, as amended in Committee of the Whole and adopted for style, including the changes we've made this afternoon. So many as shall be in favor of the Adoption Schedule, vote Aye on the voting machines; so many as are opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Absent
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Excused
Cate	Absent
Champoux	Absent
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Absent
Davis	Aye
Delaney	Aye
Driscoll	Aye
Drum	Absent
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Absent
Foster	Aye
Furlong	Aye
Garlington	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Absent
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Absent
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Absent
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye

Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. President, 89 delegates voting Aye, no delegates voting No.

PRESIDENT GRAYBILL: 89 delegates having voted Aye, the Adoption Schedule is adopted. All right, if you'll take the Transition Schedule that we worked on this afternoon and that we amended most recently. So many as shall be in favor of the Transition Schedule, vote Aye; and so many as are opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Absent
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Excused
Cate	Absent
Champoux	Absent
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Absent
Davis	Aye
Delaney	Aye
Driscoll	Aye
Drum	Absent
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Absent
Foster	Aye
Furlong	Aye
Garlington	Aye
Gysler	Aye
Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Nay
Holland	Absent
Jacobsen	Aye
James	Aye
Johnson	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Nay
Leuthold	Aye
Loendorf	Aye
Lorello	Absent
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Absent
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Absent
Robinson	Aye
Roeder	Aye
Rollins	Aye

Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. President, 87 delegates voting Aye, 2 delegates voting No.

PRESIDENT GRAYBILL: 87 delegates having voted Aye and 2 No, the Transition Schedule is adopted. Now, ladies and gentlemen, you have adopted on Order of Business Number 6, Final Adoption, the Preamble, the fourteen sections of the Constitution, the ballot, the adoption schedule, the transition schedule. The Chair now puts the question to you to adopt the whole Constitution package, including the Preamble, the fourteen sections, the ballot, the adoption schedule, the transition schedule. So many as are in favor of that total package, vote Aye; so many as are opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Mr. Simon.

DELEGATE SIMON: (Inaudible)—could Chairman of the Drafting Committee get back so he could vote? He left just a moment ago.

(Delegate Schiltz returned to the floor—laughter)

PRESIDENT GRAYBILL: Mr. Schiltz, we're voting on the Preamble, the fourteen sections, the ballot, the adoption schedule and the transition schedule as a lump. Do you want to vote?

DELEGATE SCHILTZ: Yes, I do, Mr. President.

PRESIDENT GRAYBILL: Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	Aye
Anderson, J.	Aye
Anderson, O.	Aye
Arbanas	Aye
Arness	Absent
Aronow	Aye
Artz	Aye
Ask	Aye
Babcock	Aye
Barnard	Aye
Bates	Aye
Belcher	Aye
Berg	Aye
Berthelson	Aye
Blaylock	Aye
Blend	Aye
Bowman	Aye
Brazier	Aye
Brown	Aye
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Excused
Cate	Absent
Champoux	Aye
Choate	Aye
Conover	Aye
Cross	Aye
Dahood	Absent
Davis	Aye
Delaney	Aye
Driscoll	Aye
Drum	Absent
Eck	Aye
Erdmann	Aye
Eskildsen	Aye
Etchart	Aye
Felt	Absent
Foster	Aye
Furlong	Aye
Garlington	Aye
Gysler	Aye

Habedank	Aye
Hanson, R.S.	Aye
Hanson, R.	Aye
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Aye
Joyce	Aye
Kamhoot	Aye
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Absent
Mahoney	Aye
Mansfield	Aye
Martin	Aye
McCarvel	Aye
McDonough	Aye
McKeon	Absent
McNeil	Aye
Melvin	Aye
Monroe	Aye
Murray	Aye
Noble	Aye
Nutting	Aye
Payne	Aye
Pemberton	Aye
Rebal	Aye
Reichert	Absent
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Aye
Scanlin	Aye
Schiltz	Aye
Siderius	Aye
Simon	Aye
Skari	Aye
Sparks	Aye
Speer	Aye
Studer	Aye
Sullivan	Aye
Swanberg	Aye
Toole	Aye
Van Buskirk	Aye
Vermillion	Aye
Wagner	Aye
Ward	Aye
Warden	Aye
Wilson	Aye
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. President, 90 delegates voting Aye, no delegates voting No.

(Applause)

PRESIDENT GRAYBILL: Very well, 90 delegates having voted Aye and none voting No, we've adopted the Constitution. Now, we will—the Chair, under Rule 51, hereby orders the Constitution enrolled, and the enrolling will be done and, as you know, Mr. Garlington will have it ready for us to sign on Friday morning. Now, the Chair—Friday morning at 10 o'clock. Now, without objection, the Chair would like to be on Order of Business Number 11, Announcements. Any objection? Mr. Harper, have you got an objection?

DELEGATE HARPER: No. There's a song out of World War II we should have sung—"Praise the Lord, We've Passed the Constitution". (Laughter)

PRESIDENT GRAYBILL: Well, I think that's what we have to do on June 6th, Mr. Harper, and then we'll sing. The Chair would like to announce that we will meet at 9 o'clock tomorrow. There are some matters—there's a report from Mr. Garlington's committee telling us how to act on Friday, there's a resolution, there are one or two other minor matters; however, the Chair will attempt to avoid any lengthy debates tomorrow morning and we may be able to get out of there pretty soon, but I would like to have attendance tomorrow morning, since you're going to be paid for that day.

Mr. Murray.

DELEGATE MURRAY: Just one thing, Mr. President. I think maybe some of the delegates would like to know that the pages have taken an estimate of the number of words in the newly proposed Constitution, and we estimate approximately 12,000 words, and that's as opposed to 28,000 in the present Constitution—some 43 percent smaller.

PRESIDENT GRAYBILL: Now, there's one other thing. In order that you might be aware of the Friday affairs as fast as possible and before you read it in the newspapers, the Chair would like Mr. Hanson to read this news release which the select committee has put out this afternoon. It'll only take a minute.

CLERK HANSON: "News Release. Ceremonial Proceedings, Montana Constitutional Convention. The final signing and sealing of the proposed new Constitution will take place in Convention Hall at 10 o'clock a.m., Friday, March 24, 1972. The original document is to be signed by the President, attested by the Secretary, and then signed in alphabetical order by the delegates. This will be the last official session of the Convention. It will open in the usual manner with the Pledge of Allegiance to the flag and the Invocation, which will be given by Reverend H. R. Anderson, Jr., First Presbyterian Church of Great Falls, Montana. First Vice President John Toole will preside as master of ceremonies. This is of special interest, since his grandfather, John R. Toole, served as a delegate to the 1889 Convention and its original document bears his signature. As a matter of general interest, the 1889 Constitution will be displayed at the signature table in the care of its official custodian, the Secretary of State. A number of guests have been invited to participate in the proceedings. These include the chief executive, Governor Anderson; the chief justice, Justice Harrison; and the senior legislators of Montana, Senator Dave Manning of Hysham and Representative Thomas Haines of Missoula. Chief Old Person, who has just completed his term of service as President of the National Congress of American Indians, will also be present. Since youth groups of Montana have taken such marked interest in the Convention proceedings, the Governor of Boys' State and Girls' State, the President of YMCA Youth Constitutional Convention of 1972, and the Chairman of the University Student Presidents Association also will participate. The Constitutional Revision Commission and the Constitutional Convention Commission, as originators and sponsors of the Convention, will be represented by Mrs. Firman (Marge) Brown of Missoula, who served in both commissions. Following a closing address by President Graybill, the original document will be signed by the officers and delegates, after which the adjournment of the Convention sine die will occur. This date corresponds precisely to the projected last day on which the full Convention process was budgeted for. Payment out of the legislative appropriation provided for it. The proceedings will close with a benediction given by the Most Reverend Raymond G. Hutchinson, [sic] Bishop of the Diocese of Helena. J. C. Garlington, Chairman, Ceremonial Committee."

PRESIDENT GRAYBILL: Thank you, Mr. Hanson. The Chair would also like to announce that tomorrow the much-postponed meeting of the Voter Education Committee will take place—after our adjournment in the morning, tomorrow. And—are there other announcements for tomorrow or for tonight? Oh—Yeah, I guess that's all.

Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. President.

PRESIDENT GRAYBILL: Just a moment, Mr. Eskildsen. Mrs. Pemberton is on her feet.

DELEGATE PEMBERTON: The women delegates who are still free are still expected in Room 127 at the Colonial.

PRESIDENT GRAYBILL: Is that a discriminatory note that's creeping in here at the last minute? (Laughter)

Are you on your feet, Mrs. Sullivan?

DELEGATE SULLIVAN: I am, Mr. President. For the record, may I say that it's Bishop Raymond G. Hunthausen, and not Hutchinson. John, only for the record.

PRESIDENT GRAYBILL: Very well.

All right, now, I guess, Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. President, at times when we was working here I thought, maybe, that our alligator mouths was going to get away with our hummingbird brains, but I think we've done pretty well. And with that, I'd move that we stand adjourned until March 23, 9:00 a.m., 1972.

PRESIDENT GRAYBILL: Very well, the motion is to adjourn until 9:00 a.m. tomorrow. All in favor, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.
(No response)

PRESIDENT GRAYBILL: So ordered.

(Convention adjourned at 6:40 p.m.)

March 23, 1972
9:20 a.m.

Fifty-Third Day

Convention Hall
Helena, Montana

PRESIDENT GRAYBILL: The Convention will come to order. If you'll all stand, Reverend Harper will lead us in an invocation.

DELEGATE HARPER: You know, last night as I stood in the yard of our home and looked across this town to the beautiful lighted capitol dome, thrusting itself up into the darkness with its new found brilliance, I know it may sound corny to say, but I had a moment of overwhelming pride that we had been privileged to be now a real part of what this lighted dome symbolizes, and I found myself wishing that the first man and woman who lit that first tallow candle in the first sod hut on the Montana prairie could have stood here with us, and maybe, as St. Paul said, they do, seeing as we are surrounded by so great a cloud of witnesses. Let's bow our heads to pray. Lord, we really do thank You that we have been privileged to share this once-in-a-lifetime privilege and opportunity together. And now remind us that our work is never done, that freedom is never free, that we must be willing to make payment on it every day for the rest of our lives. Assure us that brotherhood and peace is not so wild a dream as those who profit by postponing it pretend, and keep us working for others as long as You work. Amen.

PRESIDENT GRAYBILL: We will take attendance by voting Aye on the voting machines.

CLERK HANSON: Mr. President, may Delegates Bowman, Campbell and Lorello be excused this day?

PRESIDENT GRAYBILL: Bowman, Campbell and Lorello are excused.

CLERK HANSON: Delegate Blaylock, Delegate Bugbee, Delegate Dahood, Delegate Eck, Delegate Holland, Delegate Monroe, Delegate Wagner.

PRESIDENT GRAYBILL: Delegate Wagner is excused.

CLERK HANSON: Delegate Wagner excused. Delegate Holland.

PRESIDENT GRAYBILL: Very well, take the attendance.

Aasheim	Present
Anderson, J.	Present
Anderson, O.	Present
Arbanas	Present
Arness	Present
Aronow	Present
Artz	Present
Ask	Present
Babcock	Present
Barnard	Present
Bates	Present
Belcher	Present
Berg	Present
Berthelson	Present
Blaylock	Present
Blend	Present
Bowman	Excused
Brazier	Present
Brown	Present
Bugbee	Present
Burkhardt	Present
Cain	Present
Campbell	Excused
Cate	Present
Champoux	Present
Choate	Present
Conover	Present
Cross	Present
Dahood	Present
Davis	Present
Delaney	Present
Driscoll	Present
Drum	Present
Eck	Present
Erdmann	Present
Eskildsen	Present
Etchart	Present
Felt	Present
Foster	Present
Furlong	Present
Garlington	Present
Gysler	Present
Habedank	Present
Hanson, R.S.	Present
Hanson, R.	Present
Harbaugh	Present
Harlow	Present
Harper	Present
Harrington	Present
Heliker	Present
Holland	Absent
Jacobsen	Present
James	Present
Johnson	Present
Joyce	Present
Kamhoot	Present
Kelleher	Present

Leuthold	Present
Loendorf	Present
Lorello	Excused
Mahoney	Present
Mansfield	Present
Martin	Present
McCarvel	Present
McDonough	Present
McKeon	Present
McNeil	Present
Melvin	Present
Monroe	Present
Murray	Present
Noble	Present
Nutting	Present
Payne	Present
Pemberton	Present
Rebal	Present
Reichert	Present
Robinson	Present
Roeder	Present
Rollins	Present
Romney	Present
Rygg	Present
Scanlin	Present
Schiltz	Present
Siderius	Present
Simon	Present
Skari	Present
Sparks	Present
Speer	Present
Studer	Present
Sullivan	Present
Swanberg	Present
Toole	Present
Van Buskirk	Present
Vermillion	Present
Wagner	Excused
Ward	Present
Warden	Present
Wilson	Present
Woodmansey	Present
Mr. President	Present

CLERK HANSON: Mr. President, 95 delegates present, 4 excused, 1 absent.

PRESIDENT GRAYBILL: Very well, the journal may so show. Order of Business Number 1, Reports of Standing Committees.

CLERK HANSON: "Mr. President, the Committee on Style, Drafting, Transition and Submission transmits the official ballot adopted by the Convention March 22, 1972. Sincerely, John M. Schiltz, Chairman, Committee on Style, Drafting, Transition and Submission."

PRESIDENT GRAYBILL: Very well, the Style and Drafting Committee having presented the Chair with the ballot—having submitted the ballot, the Chair will submit the ballot to the Rules Committee with the instructions that it be passed on to the Secretary of State for inclusion in the preparation of the ballots for the election. The Chair understands that the ballot will be printed and placed at the back of the Constitutions that we're getting ready for you in printing today so you'll have a ballot form to show people. The ballot is now accepted and transmitted. Very well, Order of Business Number 2, Select Committees.

Mr. Garlington, do you want to, at this time, discuss the proceedings tomorrow, so that everyone knows what we're doing?

DELEGATE GARLINGTON: Be very glad to, Mr. President. The Convention will convene tomorrow, not at 9 o'clock but at 10 o'clock, and will convene in the usual manner at that time; first, with the Pledge of Allegiance to the flag, the invocation, and the roll call, after which Vice President Toole will take the Chair to conduct the further proceedings. I want to inform you all that we will be invaded this afternoon by the commercial television people, who are going to establish themselves in the left-hand area here in order to make their records of these final closing proceedings. After Mr. Toole takes the Chair, there will be a matter of resolutions to be handled by the body, certain telegrams and other communications to be received, and then we will get to the introduction of the guests at the signing ceremonies. These guests will include the Governor, as the chief representative of the Executive Branch of government; the acting Chief Justice—it appearing to me last night that the chief himself is obligated to leave town today to be in Great Falls; and we'll have as a representative of the Legislative Branch the oldest, in point of service, legislator, Mr. Tom Haines of Missoula. Senator Manning, who I think is the dean of the legislative body, told me last night about 7 o'clock that he felt he would not be able to be here, and so we have concluded simply to have one representative of the Legislative Branch. Beyond that, we're going to have the Lieutenant Governor of Boys' State, the Governor of Girls' State, the President of the YMCA Constitutional Convention which met here in Helena in January and did a very creditable job of composing a convention—in fact, I thought of putting it in as a delegate proposal at one time, because I thought it was really extremely well done. We will have a representative of the University Student Presidents Association—this is not quite the correct term, but you know who I mean. The Chairman of that group is our clerk, John Hanson, so we will be devoting him to professional service as our clerk, since this is a regular meeting of the group, so he is bringing in one of his co-chairmen for the purposes of this occasion. We will also have Chief Old Person, who is probably the highest ranking member of the Indian culture that we have in Montana. Now, we have asked these people whom I have named to just give us, in effect, a word of greeting or a minute or two, because we recognize that the limitations of time in presenting any commercial television news coverage of these proceedings just can't drag out, drag out, drag out. So this will all proceed very rapidly. At the conclusion of the introduction of these guests—and I must mention that Mrs. Firman Brown of Missoula happens to have served on both the Constitutional Revision Commission and the Constitutional Convention Commission, so she is going to represent both of those groups from our antecedents and forebears. Senator MacDonald was Chairman of the Revision Commission, and he can't come. The other people who were the chairmen and vice chairmen of those groups are away somewhere, but Mrs. Brown will be here for both of them. Following the introduction of these guests and their brief comments, there will be an address to us by our President, and then we will proceed to the actual signing. The signing is going to be strictly in accordance with the rules. We're going to have that old table up in the corner right up here in front of the rostrum. It will have on it the old original Constitution of 1889, in the custody of Secretary of State. He will be here with the Great Seal. The rule calls for the final document, which is on the typewriters now, being readied for tomorrow, to be executed by the President and attested by the Secretary. So, at this table here, the President will come and sign, the Secretary will attest and affix the seal, after which the delegates are to sign the document in alphabetical order. So, without a lot of details, since we're accustomed to alphabetical order, we will begin here with Mr. Aasheim going right up to the table there and following with Mr. Anderson and right on through the list here, without any formality other than our own cooperation, so that one-by-one we go to the table and we sign the original document, which Mrs. Bowman will have there to see that we sign in the right place, and so on. We want also to have the original journal signed, so there will be a second document for each of us to sign on the table there, and Mrs. Bowman will be skippering that as well. While the rest of us are at our seats, we are going to get a few more copies of just the signature page of duplicate originals of the Constitution signed by all the delegates. We've had such practice autographing here in the last 3 or 4 weeks, and I am sure that won't be any additional problem. And just as a matter of historical record, we would like to have a duplicate original in the historical society or the state library, wherever it belongs, and perhaps one that can be in the Governor's office—that sort of thing. So we'll get some duplicate originals prepared, only in the signature pages, because we can't do the rest of it until there is more time for the machines to work at it. The Highway Department will be here to—be in the hall and take a little individual photograph of each of us as we sign the document, and we are hoping to arrange that the negative of the shot of each of us can be sent to each of us afterward so that we can then do whatever we want in the way of prints or enlargements or preservation of the thing as we may prefer. We have obtained a color print of this magnificent painting up here to give to each of you as a kind of a reminder of the ordeal through which you have now successfully passed, and we kind of think that that painting, plus the little photograph, will make a pretty good reminder for you of your participation in this Convention. We're working on another thought, which is to be able to obtain a full-sized duplicated copy of the original Constitution to give each of you for enough of a price to reimburse the state for the cost of the duplication. We don't know just what that is, but tomorrow morning on your desk, we hope to have a little kind of order form so that you can tell what the facts are about it and either have it or not as you may wish. I think, Mr.—then following the completion of the signing ceremonies, there will be the matter of formal adjournment, sine die, which Mr. Eskildsen will conduct, and then we will be having a final benediction by Bishop Hunthausen, and that will conclude the whole proceeding. As a guess as to time, we think that this will all certainly be accomplished by noon and then we'll be free to be on our way home. I guess I don't have any additional information to pass on at this time. Oh, the matter of signature of the document—we're going to use the sharp-pointed black felt pens for uniformity and ease of reproduction, so our thought is that all of us will do it in the same manner and the secretary will be provided with a supply of those so that the signatures can be in proper form on the original document. I believe that's all I have to say, Mr. Chairman.

PRESIDENT GRAYBILL: Very well. Now, there may be some of you who have questions, and you may want to yield, Mr. Garlington. I have a question, so that everyone understands. Do we contemplate using signature pages with lines with the names typed under them so people can easily see who the signatures are.

DELEGATE GARLINGTON: That is our plan, yes, your honor. We are going to have them numbered and lined.

PRESIDENT GRAYBILL: Numbered and lined, so that you shouldn't have too much difficulty finding where to sign. Are there other questions about tomorrow's operations that you want to ask Mr. Garlington before we go on?

Mr. Aasheim.

DELEGATE AASHEIM: Mr. Garlington, would it be possible for people to take individual pictures of each one signing? Would the aisle be open for that purpose?

DELEGATE GARLINGTON: I think the aisle will be open. I will learn this afternoon from Mr. Tallon of the Highway Department how he wants to set it up here so that he can take, really, a pretty good picture of each of us as we sign the document at the table. Our hope is to not have too many of the TV lights spoil the photography. This is quite a problem, because of the glare of the lights on the lens, and he will kind of be here (illustrating). We'll have the table far enough over there so that it will be easy to pass up and down the center aisle here, and I think, beyond that, it's just a matter of individual skill at the photographing.

PRESIDENT GRAYBILL: Mr. Aasheim.

DELEGATE AASHEIM: Question. I don't suppose there'll be a hundred pens so we could take the pen with us that we signed the document with.

PRESIDENT GRAYBILL: Please don't take the pen, Mags—(Laughter) That would make it pretty narrow signing if you're the only one that got—(Laughter) Maybe Woodmansey might get the pen. I'm not—(Laughter) I suppose—the Highway is going to try and get individual pictures as we sign?

DELEGATE GARLINGTON: That's right.

PRESIDENT GRAYBILL: Right. And, if necessary, I imagine that either Cedor or Mrs. Bowman or maybe Mrs. Blend or Mr. Arness might trade chairs with the photographer or something. I would like to keep the aisle fairly clear so that people may use it to get to and from, but they might—I'm sure these people down here would be glad to share or put an extra chair in at that point. I am asking, tomorrow—we will have as many chairs set up as possible in the foyers on each side and perhaps other places in here to get more audience in, but I'm asking, tomorrow, that the delegates on the floor simply sit in their seats and not bring extra chairs into their area, for the simple reason that people will be looking at you and trying to identify you and I don't want to get the rows too badly out of line. We might make an exception to that in the case of a photographer at the front here, but let's try to keep the hundred chairs together, and then we'll fill up as much as we can without too much crowding the aisles on the edge. Are there other questions?

Mr. Hanson.

DELEGATE ROBERT HANSON: Mr. President, is there any provision made for the wives of the delegates? Any particular area?

PRESIDENT GRAYBILL: No, it's first come, first served, but we want here—we're certainly happy if they can come in and sit on the floor; and you know, I don't mind you saving one, but we haven't put out passes. Other questions?

(No response)

PRESIDENT GRAYBILL: Very well, I think that takes care of the situation. We will start tomorrow morning as promptly as possible at 10:00, and we'll hope that everything goes well on the program. Order of Business Number 3, Communications.

CLERK HANSON: None, sir.

PRESIDENT GRAYBILL: Order of Business Number 4, Introduction.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number 5, Final Consideration.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number 6, Adoption.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number 7, Resolutions. Mr. Murray, where are you? Good morning, Mr. Murray. All right, Mr. Murray, we're going to start on 17. Have you got Resolution Number 17—or may the clerk read it? Clerk will read Resolution Number 17.

CLERK HANSON: "Montana Constitutional Convention, 1971-1972. Resolution Number 17. Date introduced, March 22, 1972. Whereas, the Montana Constitutional Convention wishes to avoid challenges to its substantive and procedural work for violations of its rules or other technicalities. Now, therefore, it is hereby resolved: That the substantive work of the Montana Constitutional Convention shall not be subject to challenge on the basis of violations of Convention rules or other procedural technicalities, and for that purpose the delegates hereby ratify and affirm each and every substantive and procedural act taken by the Convention and its officers. Introduced by Committee on Rules and Resolutions, Marshall Murray, Chairman."

PRESIDENT GRAYBILL: Mr. Murray.

DELEGATE MURRAY: Mr. President, I move the adoption of Resolution Number 17. By way of explanation, let me say that it's been suggested to the Rules Committee that we come forth with such a resolution. Because of the turmoil in the last few days of the Convention, particularly with respect to the waiver of our rules—the suspension of our rules, and particularly the matter of time, the advancement over the 48-hour rule, we felt that we might be exposing ourself to the possibility of some type of legal attack, either as to those particular measures which might have been affected by the suspension of the rules or the handling of those matters, perhaps, under the wrong order of business or, perhaps, even the entire Constitution itself, and we felt that it is something that should not happen and that we should not expose ourself to that possibility. I think that the resolution is rather self-explanatory. It is the same type of action that stockholders take relative to the action of directors of a corporation in almost every instance, and I see nothing difficult about it. We are simply saying that it is our intention that we should not be subject to challenge on the basis of violations of Convention rules or other procedural technicalities, and for that purpose we ratify and affirm each and every substantive and procedural act taken by the Convention and its officers, and so we relate that to our procedures under our rules. The rules are our means of operation. And we do not think that any of the public should be able to take advantage of one of our rule problems, because—that certainly as far as anybody and—that I have discussed this problem with have been able to tell me, we have not had a substantive problem because of our rules, so I urge the adoption of the resolution.

PRESIDENT GRAYBILL: Very well, the resolution has the effect of ratifying the acts of the Convention and its officers and indicating that we don't wish technical procedural violations to stand in the way of the Constitution. Is there discussion of the resolution?

(No response)

PRESIDENT GRAYBILL: Very well; all in favor of the resolution, please say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

(No response)

PRESIDENT GRAYBILL: The Ayes have it, and so ordered. Would you—Mr. Clerk, would you now read Resolution Number 18—Mrs. Reichert's.

CLERK HANSON: "Montana Constitutional Convention, 1971-1972. Resolution Number 18. Date introduced: March 23, 1972. A resolution of the Montana Constitutional Convention to determine the delegates' preference for a unicameral or bicameral Legislature. Whereas, it is imperative that the people of Montana know the preference of the delegates regarding the legislative structure; Whereas, the record has not clearly shown the feelings of the body. Now, therefore, be it resolved by the Constitutional Convention of the State of Montana: There shall be a vote on this issue. Introduced by Arlyne Reichert, Mae Nan Robinson, and George Harper." Mr. President.

PRESIDENT GRAYBILL: Very well, this resolution, Number 18—may I have a copy, Mr. Clerk?—has been placed before the Chair for the purpose of raising this issue about the unicameral-bicameral vote. Mrs. Reichert and others are anxious to get a—at least the sense of the body here. If you adopt the resolution, which calls for a clear feeling—showing of the feelings, then the Chair would—if you adopt the resolution, then the Chair would put a motion that those favoring, lets say, unicameral vote Aye and those favoring bicameral vote No, and we could find out how many—what the numerical difference is, if you want to. Secondly, if you want to, I'll take it by roll call, but I don't care which way—which we do. But in any event, Mrs. Reichert's resolution has the effect of putting before this body a request that we take a vote, either a nonrecorded vote or a roll call vote—either one.

Mrs. Reichert.

DELEGATE REICHERT: Mr. President, fellow delegates, friends. When I discussed this resolution with others, I learned that my bicameral friend, Dick Nutting, had intended to submit a similar resolution. He deferred to me, and therefore I am presenting this. I am very pleased to have been a part of this Constitutional Convention. The fact that in 53 days we have produced a document, I think is a remarkable one, and I think we have a fine document as a result of our efforts. True, we've had our disappointments—some small, some big—but nevertheless, we conceived a Constitution and we're still friends. I believe that if there had been another body of 50 delegates down the hall in the senate chambers, going through the exact process simultaneously, it would have required at least 106 working days taken by the last Legislature to come up with any document at all. Now, I'm not going to talk any longer—maybe one more minute. I'm just going to say that the ballot is drawn up; now is the time for the people to know how each one of us feels about this significant issue. Now, several of you have told me that you were interested in unicameral, but your constituents are not. If unicameral is to have any chance at all on the ballot, we must let the people know how we feel. I am asking those of you who would personally be willing to try the unicameral Legislature at least until 1980 to please vote Aye on this resolution. Thank you. Mr. President, I would like a roll call vote.

PRESIDENT GRAYBILL: Mrs. Reichert, your request for a roll call vote stuns me for the moment. It seems to me that the sense of the resolution is that if we adopt the resolution, then the body will allow a vote to be taken; and I don't think I ought to take a roll call vote on adopting it, because then they would have accomplished your purpose—or at least they would have to follow themselves up on that—so the Chair would like to say that the vote will, at least initially, be oral on whether to adopt or not this resolution; and if it's adopted, then the Chair would be glad to take up the problem of what you want to know, whether you want the names or whether you just want the numbers or whether you want the buttons.

Now, Mr. Mahoney, do you want to discuss the motion—or the resolution?

DELEGATE MAHONEY: Well, I'm wondering, Mr. Chairman, what we going to accomplish here?

PRESIDENT GRAYBILL: We're really accomplishing a—what's the word I'm looking for?—a poll on unicameral-bicameral. She wants to know, and they want to know, what proportion of this hundred delegates would like unicameral. That's what we're really accomplishing.

DELEGATE MAHONEY: Would there be—in this question here, can anybody vote just about as they pleased? Or not vote? I—if the thing were accomplishing something, Mr. Chairman, I would certainly not object, but if you're just going out here to poll the delegates, maybe you could walk around with a petition or something and arrive at the same thing. To me, I just wonder, are you just trying to put a bunch of delegates on the spot, and it don't worry me—I'm bicameral—but I'm just wondering if we're doing—if this is what we're trying? I hope not, but I wonder.

PRESIDENT GRAYBILL: Mr. Scanlin.

DELEGATE SCANLIN: Mr. Chairman, I would be forced not to vote on a roll call vote, but I would vote on a nonrecorded vote. Thank you, Mr. Chairman.

PRESIDENT GRAYBILL: Very well, is there other discussion of the resolution?

Mr. Davis.

DELEGATE DAVIS: Mr. President, I hate to ask this, but could you have the clerk read it again.

PRESIDENT GRAYBILL: Right, I'll read it again. "Whereas, it's imperative that the people of Montana know the preference of the delegates regarding the legislative structure; and Whereas, the record has not clearly shown the feelings of the body. Now, therefore, be it resolved by the Constitutional Convention of the State of Montana: that there shall be a vote on this issue." Now, whether it's recorded or not, we'd be glad to cross that bridge.

Mrs. Reichert, you asked the Chair—you asked the clerk to strike the word "recorded"—would you be—and you heard Mr. Scanlin—would you be satisfied with a vote where you knew the numbers rather than the names?

DELEGATE REICHERT: Not nearly as satisfied. I would really like a roll call vote—but if it's the wishes of the body not to express themselves, if they prefer not to have the people know how they feel, it's all right with me.

PRESIDENT GRAYBILL: All right, I think the people want to know that before they vote for this resolution, so—

Mr. Harper.

DELEGATE HARPER: Yes, Mr. Chairman. I think maybe most of you know that Delegate Dave Holland got married last night, and I'd like to ask on his behalf that nobody have a call of the house. (Laughter)

PRESIDENT GRAYBILL: Very well, we'll note that. All right, the Chair has—is there other discussion of this matter?

Mr. Wagner.

DELEGATE WAGNER: I'd like to announce my presence, Mr. President.

PRESIDENT GRAYBILL: Mr. Wagner's presence may be announced—shown on the journal. Very well, the Chair—seeing no one up to discuss the matter, the Chair has a way that I'd like to approach this. First of all, if you'll just all use your normal voices, all those that would be in favor of a recorded roll call vote, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: All those that would be against a recorded roll call vote, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: All right. Well, the sense of the body is that if we do this, it's going to be a recorded roll call—and, of course, you don't have to vote if you don't want to—now—because overwhelmingly you've suggested that. Now, the Chair will now put Mrs. Reichert's resolution. All those in favor of her resolution that there be a recorded roll call vote on this issue, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

DELEGATES: No.

PRESIDENT GRAYBILL: The Ayes have it, and we'll have a recorded roll call vote. All those in favor of unicameral Legislature, vote Aye on the voting machines; and all opposed, vote No. Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Has every delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot. Now, before the clerk announces the vote, the greens are for unicameral and the reds are for bicameral. Does anyone wish to stand and change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, announce the vote.

Aasheim	Nay
Anderson, John	Nay
Anderson, O.	Absent
Arbanas	Aye
Arness	Aye
Aronow	Nay
Artz	Nay
Ask	Nay
Babcock	Nay
Barnard	Nay
Bates	Nay
Belcher	Nay
Berg	Nay
Berthelson	Aye
Blaylock	Nay
Blend	Aye
Bowman	Excused
Brazier	Nay
Brown	Absent
Bugbee	Aye
Burkhardt	Aye
Cain	Aye
Campbell	Excused
Cate	Aye
Champoux	Nay
Choate	Aye
Conover	Aye
Cross	Absent
Dahood	Aye
Davis	Nay
Delaney	Nay

Driscoll	Nay
Drum	Nay
Eck	Aye
Erdmann	Aye
Eskildsen	Nay
Etchart	Nay
Felt	Aye
Foster	Aye
Furlong	Aye
Garlington	Aye
Gysler	Nay
Habedank	Aye
Hanson, R.S.	Nay
Hanson, R.	Nay
Harbaugh	Aye
Harlow	Aye
Harper	Aye
Harrington	Aye
Heliker	Aye
Holland	Absent
Jacobsen	Aye
James	Nay
Johnson	Nay
Joyce	Aye
Kamhoot	Nay
Kelleher	Aye
Leuthold	Aye
Loendorf	Aye
Lorello	Excused
Mahoney	Absent
Mansfield	Absent
Martin	Absent
McCarvel	Aye
McDonough	Absent
McKeon	Aye
McNeil	Nay
Melvin	Nay
Monroe	Aye
Murray	Aye
Noble	Nay
Nutting	Nay
Payne	Aye
Pemberton	Nay
Rebal	Absent
Reichert	Aye
Robinson	Aye
Roeder	Aye
Rollins	Aye
Romney	Aye
Rygg	Nay
Scanlin	Absent
Schiltz	Aye
Siderius	Nay
Simon	Nay
Skari	Aye
Sparks	Nay
Speer	Aye
Studer	Nay
Sullivan	Nay
Swanberg	Aye
Toole	Aye
Van Buskirk	Absent
Vermillion	Aye
Wagner	Nay
Ward	Nay
Warden	Aye
Wilson	Nay
Woodmansey	Aye
Mr. President	Aye

CLERK HANSON: Mr. President, 47 delegates voting green, 39 voting red.

PRESIDENT GRAYBILL: Very well, Mrs. Reichert, I think your purpose is accomplished.

Mr. Scanlin.

DELEGATE SCANLIN: Mr. Chairman, could I have the figure on how many abstained—or not voting?

PRESIDENT GRAYBILL: Well, you've got to add 47 and 39—that's 88, less 4—88—that's 12 less 4—8 abstained, roughly—8 abstained. Well, there's 4 absences; 88—isn't that right? Or is it 86?—86. All right. Well, then, 10 abstained—10 abstained.

Very well, will the clerk read Resolution Number 19.

CLERK HANSON: "Montana Constitutional Convention, 1971-1972. Resolution Number 19, introduced March 23, 1972. Whereas, the Montana Constitutional Convention has met in Helena and through Convention hearings, debates and sessions adopted a proposed Constitution which must be explained and presented to the voting public for its ratification on June 6, 1972; and Whereas, the Telecommunications, Inc., on behalf of the Montana Cable Television Association, has provided over 25 hours of Convention coverage for presentation on local and statewide cable television and has maintained personnel and equipment necessary to videotape portions of the Convention and numerous interviews with delegates and others, and has informed the voting public. Now, therefore, be it resolved that the Montana Constitutional Convention hereby thank Telecommunications, Inc., for the assistance it has given the Convention in presenting the work of the Convention to the viewing audiences in Montana and hereby extends the Convention's sincere appreciation and thanks to Telecommunications, Inc., for the work it has done. Introduced by Committee on Rules and Resolutions, Marshall Murray, Chairman." Mr. President.

PRESIDENT GRAYBILL: Mr. Murray.

DELEGATE MURRAY: Mr. President, I move the adoption of Resolution Number 19, which is self-explanatory and is merely for the purpose of thanking Telecommunications, Inc., for the assistance that they've given in the cable television field.

PRESIDENT GRAYBILL: The Chair would like to say that Telecommunications, Inc., did ask us that we do this, and I see nothing, personally, wrong with it; but you must vote on it. They have provided us with a great deal of coverage and more than normal and at some—at great expense to themselves. And if you feel so inclined to express your thanks for the coverage they have given this Convention, here's a method of doing it; and if you don't, then vote against it. Is there discussion?

(No response)

PRESIDENT GRAYBILL: Very well, all in favor of the resolution, please say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

(No response)

PRESIDENT GRAYBILL: The Ayes have it, and so ordered—it's adopted. Now, Order of Business Number—there are no other resolutions or motions are there?

Mr. Kelleher.

DELEGATE KELLEHER: Mr. Chairman, in packing my boxes of papers, I came across some 32 delegate proposals that I forgot to put in, and I wonder if the Chair has any suggestion on what I might do with them? (Laughter)

PRESIDENT GRAYBILL: The Chair has—Mr. Kelleher, the Chair has two suggestions. I'm not going to mention the first one, but the second one is you might have a little bonfire and cook some wienies this afternoon. (Laughter) Very well, if there are no more motions or resolutions, the Chair wants to move to Order of Business Number 8, Unfinished Business. Now, one or two of you have asked for an opportunity to say something to this Convention, and at this time I would like to start by calling on Mr. Garlington.

DELEGATE GARLINGTON: Mr. Chairman, before I give a few thoughts that have been occurring to me, I want to announce that we have now—have it confirmed that the Highway photographer who will be here tomorrow will make the negatives available to each of us. They will be mailed to us by the office out here whenever they're finally prepared. And, now, Mr. Chairman, as we prepare to close the journal of this Convention, I think we should pause a moment to reflect upon what has happened, to reflect upon who we were at the beginning and what we have now become, where we started and where we now are. In one sense, we have finished our labors, but in a larger sense we have just begun. Ahead, I see not only the imminent task of ratification, but beyond that the more important task of leading our fellow Montanans into the reality of better government for a better society. Consider this Convention; conceived and born in partisan political strife, it has matured into thoughtful and objective concern for the rightness of things. Composed of people from every walk of life, amateurs one and all in basic constitutional doctrine, it has become soundly expert in applying proper principles with perceptive judgment. We, as individuals, have been transformed from willing volunteers to dedicated and competent students of government on a statewide basis. The endless hours of study, research, and mutual consultation, culminating in these weeks of exacting debate and decision, have developed in us all a new value which I am concerned that we neither lose nor underrate. In fact, I think it has fastened upon us a new commitment to go the next mile and make sure that our labors bear fruit. This has not come easily. This Convention bears the unmistakable imprint of expert and committed leadership, utterly devoted to the successful achievement of its goals. Where we were partisan, we are nonpartisan. Where we were inflexible, we are flexible. Where we were hesitant, we are confident. Where we were skeptical of each other, we enjoy mutual respect and confidence. Our debates and discussions have never been marred by angry exchange or sarcastic derision. For these good fortunes, we owe a debt of great gratitude to our President, whose constant daily example in the performance of his most difficult and uncharted tasks has led us this far. The thoughtful prayers each morning for Divine guidance in our work have been answered before our very eyes. And where does this leave us now?

What have we really accomplished? What shall we say to the people who sent us here and paid us for this effort? Is it in our hearts to urge them one and all to approve our document? Have we been truly fair to all the varied people, groups, and interests whom we were charged to safeguard and to serve? These are sobering questions, and they rise in all our minds when the pressures of listening, deciding, and voting occasionally lessen. Being a firm believer in the wisdom of abiding by my principles, I tried to establish them early and adhere to them faithfully. I think I have done this, and it is time to test the result. I thought a Constitution should assure the citizen his personal freedoms. We have clearly done this by a Bill of Rights which not only has all the freedoms of the last 80 years, but includes a broad band of additional rights that will serve well in our ever more complex society. A Constitution, I thought, should assure the citizen his political freedom, his right to vote, to be a candidate, to express his opinions, and to know what his government is doing to him and with him. Our personal example of totally public proceedings, and our consistent opening of all the doors and desks of government to the eyes and ears of the governed, makes this a reality in Montana. If it has been done, it can be done again, and only good can flow from that process. As a cross-check, I have searched our document for a provision that sets one person or interest above another, and I find none. A good Constitution has only those fundamental structures and guidelines within which all the competing interests and pressures of society may freely move, winning or losing as their merits are tested. Our document meets this high standard. It grants no special privilege to anyone, neither does it impose any special burden. Suspicious of none, it expects the best of us all. Finally, I thought a Constitution should assure a person's future freedoms, meaning his right to try a new system, expel a bad system, devise a new solution to a new problem, and explore constantly the way to live better with government. This we have achieved. We have unshackled and energized our Legislature. We have coupled authority with responsibility in our Executive. We have set the stage for equality in the burden of taxation. We have launched a strong citizen force charged with finding better solutions to the almost infinite problems of education. We have provided maximum opportunity for the varied communities of Montana to govern themselves in their own way. These are only a few examples, but they are ample to prove the case. The press has described our work as middle-of-the-road, which I suppose is to imply shortsighted timidity in our judgments. This is a vague value judgment. The truth is that most of the people are in the middle of the road, and the Constitution has to be for the most of the people. It therefore should be where they are, and that it appears to be so is a sign to me that it has been well done. So, I shall be happy to face the waiting voters, and I have no apologies for our document. Derived as it is from the imperfect workings of imperfect people, it certainly has its faults. No one can be completely satisfied with it. I surely am not. Like all the rest of you, my ideas have sensed the green glow of victory, and the red burn of defeat. However, I believe in the collective wisdom and decisions of this group, even above my own convictions, however deep. I think our Constitution is the finest gift to the young people of Montana that it is within our power to give. We are giving them the gift of participation in their present and the management of their future, on a ship of state that is far more manageable and sensitive than the old one which we have had. I shall therefore be intensely proud to sign our document tomorrow. My act of signing will also be my act of commitment to do all I can to procure its ratification and, beyond that, to help whenever I can in its transition to full power and effectiveness. On a personal note, I am happy to have been numbered among you and to have you as my friends. Our land of the shining mountains and rolling plains will ever be more dear to me from this day on. Thank you.

(Applause)

PRESIDENT GRAYBILL: Thank you, Mr. Garlington, and I'm sure you've summed up the feelings of many of us in your statement.

Mr. James.

DELEGATE JAMES: Mr. Chairman, I think I echo the thoughts of all of us right now. I think we'd all like a copy of Jim's fine work. Is the printing press still operating?

PRESIDENT GRAYBILL: Well, it's jammed, but eventually we may be able to get it out, and I'm sure that we should have Mr. Garlington's remarks printed whenever it's possible.

Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. President, from time to time we had the pleasure of hearing that nationally known, and particularly Helena-known, barbershop quartet; and at this time I would like to call on that bullwhacker from Powder River, Torrey Johnson, to gather his group about him and give us the joys that they have for us.

PRESIDENT GRAYBILL: Well, that's certainly unfinished business. (Laughter) Torrey, do you want to go ahead?

DELEGATE JOHNSON: Mr. Chairman and delegates. Thank you very much, Joe, for this opportunity. I was hoping that we wouldn't lose out on one last crescendo from the Back-Bench Barbershoppers. Would they start to get together, please, here, while I'm spieling, because when I get through, I want the timing to be just right. Now, you know, there's an old saying down in Powder River country—Fama contata semper vivat—(Laughter)—

PRESIDENT GRAYBILL: Mr. Johnson, would you repeat that for the record. (Laughter)

DELEGATE JOHNSON: Fama contata semper vivat—

PRESIDENT GRAYBILL: Okay.

DELEGATE JOHNSON: That means, "may their musical fame last forever". (Laughter) I give you the Back-Bench Barbershoppers.

(Whereupon, Delegates Conover, Harper, Ward, Champoux, Scanlin and Johnson delivered vocal renditions of "Springtime in the Rockies" and a Happy Birthday salute to Delegate Bob Vermillion)

(Applause)

PRESIDENT GRAYBILL: Back-Benchers, would you sing a verse of that for Eskildsen. He's over the hump today, too.

(Whereupon, a chorus of Happy Birthday to Delegate Eskildsen was rendered)

(Applause)

DELEGATE HARPER: Mr. Chairman, it's great—after all of these days, day by day, with Joe getting up and saying, that we beg leave to rise and sit again, this is what we've hatched. (Laughter)

(The Back-Bench Barbershoppers concluded with their rendition of "Old Mill Stream" and parody thereon)

(Applause)

PRESIDENT GRAYBILL: Well, we want to thank you, Back-Benchers. And you know, they say that no constitutional document should be perfect, and you fit right in. (Laughter)

Mrs. Cross.

DELEGATE CROSS: Mr. Chairman, for point of information, would Mr. Johnson yield to a question?

PRESIDENT GRAYBILL: Mr. Johnson, will you yield?

DELEGATE JOHNSON: It scares me to death, but I will.

DELEGATE CROSS: Mr. Johnson, where did you learn your Latin? (Laughter)

DELEGATE JOHNSON: Well, now, Louise, I'm glad you asked me that. (Laughter) Actually, you know, I was born up in the Wolf Mountains in a little log cabin I helped my Daddy build—(Laughter)—and before I was 10 years old, there was an old fellow there that had escaped from the Jesuits and he was—he lived as a recluse, way back in the hills there, and he taught me everything I know. (Laughter)

PRESIDENT GRAYBILL: Mr. Davis.

DELEGATE DAVIS: In view of the test that was made on the unicameral, I want to make one more effort. Will Miss Sparks yield? (Laughter)

PRESIDENT GRAYBILL: Mr. Murray.

DELEGATE MURRAY: Just for the record, Mr. President, the journal should show that Miss Sparks shook her head and responded "No"—silently. (Laughter)

PRESIDENT GRAYBILL: Mrs. Pemberton.

DELEGATE PEMBERTON: Just for the record, Mr. President, we'd like you to know that women don't talk too much.

PRESIDENT GRAYBILL: Mr. Harper.

DELEGATE HARPER: Just for the record, I think we probably all will agree that it is not only she who has said no words who hasn't said anything on this floor. (Laughter)

PRESIDENT GRAYBILL: Mr. Mahoney would like to follow that.

DELEGATE MAHONEY: I'm going back

to the more serious side of this, and I don't blame you for not speaking. I think it's marvelous. First, I want to congratulate these women on this floor. I think you have done a marvelous job, and there's never been any better in the Legislature—and a lot of them, I don't think, as good as you women have done here on this floor. It's been a great pleasure to see this many women, and I know in our future Legislatures we're going to have a lot more like you, and I want to say "Congratulations to a job well done" on you ladies. I think you've done a marvelous job. You've asked no odds, you've asked no edge. You have taken it right on this floor, and I certainly admire it. Number 2—You know, we got in here one day and we had two motions to move the previous question and we discussed it, and that motion hasn't been made during this whole Convention since. I think this is marvelous, that you didn't, at these times of debate, stand out here and then immediately try to shut off debate. You listened to everybody. You've set here—and I have watched the Legislature a good many times. So, I want to congratulate the body on that. Mr. Chairman, you've done a marvelous job of presiding. I think you've had a lot of patience. I don't think I would have had patience at all the time you've had. I haven't agreed with all your rulings, but they have been fair, and I want you to know that. I think it's been marvelous. I'll never—there will never be a hundred people get together and take their differences and stand up and fight toe-to-toe any better than this hundred people have done here; and you have no comparison in any legislatures that I have known. There's less bitterness—there's been less of that. Maybe this is caused by the seating. Maybe—I think maybe this wasn't a bad idea. You get all the groups on one side and that—and then they don't get to talking on the other side. I'm in hopes the next session the Legislatures will go to a alphabetical type of seating. I think it gives you much more independence—and especially a person like me who has always been independent anyway, even including this Convention. I'll tell you this. I'm signing the Constitution tomorrow, even if I did vote five times No yesterday. Mr. Monroe got away from me yesterday afternoon—he's got six. I've only got five votes against the Constitution. I am—I don't agree with everything that Delegate Garlington has said. I'm going out, and I'm going to tell you, I'm going to explain the Constitution. I want that understood. I am going to explain it and give both sides of it, and I'm not going to tell them how to vote. This I'm going to do. But thanks again for treating me as nice as you have, and I certainly appreciate it. Thank you.

(Applause)

PRESIDENT GRAYBILL: Mr. Monroe.

DELEGATE MONROE: I just want to follow Mr. Mahoney and say that—I'm going to sign the Constitution, too; I'm going to work hard for its adoption.

(Applause)

PRESIDENT GRAYBILL: Mr. Rollins.

DELEGATE ROLLINS: Mr. Chairman, I have been accused of being fond of quoting Shakespeare, and I am. I have thought at times that what we have done here has been "Much Ado about Nothing". Sometimes I've felt that it was a "Comedy of Errors". I've even worried sometimes that it was "Twelfth Night", but now, Mr. Chairman, I'm proud to conclude that it all—"All's Well That Ends Well".

(Applause)

PRESIDENT GRAYBILL: Lucile Speer.

DELEGATE SPEER: Thank you, Mr. Chairman—Mr. President, now. This is a serious matter. I just wish to make clear for the record that I am single. I tried to correct both the Chair and the delegates for the first 2 weeks, and then I thought, when we got into substantive issues, perhaps this was not something that I should quibble about. But I feel that it has been a matter of discrimination, that I should have taken it to the Bill of Rights, and I hope the journal will show that my name—I am Miss Speer. (Laughter)

PRESIDENT GRAYBILL: The journal may show it as "Ms".

(Laughter—Applause)

PRESIDENT GRAYBILL: Mrs. Mansfield.

DELEGATE MANSFIELD: Mr. President. Next to God, my country, family and friends, this has been the greatest experience of my life, and I know we've been one family and will look to the future with fondness on these members. Thank you, Mr. Chairman.

(Applause)

PRESIDENT GRAYBILL: Mr. Champoux.

DELEGATE CHAMPOUX: First of all, I want to take this opportunity to thank you all for putting up with me. Now, we heard a lot about Studer's eagles, Lorello's pigeons, Harper's piccolos, but Champoux has been the only lonely duck in this Convention. (Laughter) Now, here I stand, Chief Little Duck. My feathers are fringed, my rear end is full of buckshot. I have damned few eagle feathers, but I'm still flying.

(Laughter—Applause)

PRESIDENT GRAYBILL: Mr. Scanlin.

DELEGATE SCANLIN: Mr. President, being probably the only native-born maniac, having a birth certificate from Bangor, Maine, I am sure I have a voting record to prove the point.

(Laughter)

PRESIDENT GRAYBILL: Now, the Chair wishes the journal to show, in a little more formal manner than Mr. Harper made the announcement, that apparently Dave Holland did get married yesterday; and we're going to try and get him back for the signing; and I think that we all want to wish Dave well. And, if this is—if this report is correct, which I understand it is, I'm certain that we're all happy for Dave and would want the record to so show.

Very well. Mr. Rebal, where is your Lincoln Continental parked now? (Laughter)

DELEGATE REBAL: The Governor was more gracious than you. (Laughter)

PRESIDENT GRAYBILL: Don, he just hasn't been here as much. (Laughter)

DELEGATE REBAL: Well, I'd like the record to show that Dave Handball—or Dave Holland missed his handball match yesterday. (Laughter)

PRESIDENT GRAYBILL: Very well, unless there's other unfinished business, we'll move on to announcements. We'll move on, without objection, to Order of Business Number 11, Announcements, and Mr. Toole has an announcement.

DELEGATE TOOLE: Mr. Chairman, a meeting of Administrative Committee, 8:15 in the Rules Committee room tomorrow morning.

PRESIDENT GRAYBILL: That's 8:15 tomorrow morning, for the Administrative Committee, in the Rules Committee room here. That's an important but short meeting.

Mrs. Warden.

DELEGATE WARDEN: I would just like to thank everybody that has helped the Public Information Committee. I think this has been great. And I would also like to say that sometime today on your desk will be a report. I hope some of the ideas that are in this report can be used by the delegates when they go home, because they're kind of a compilation of all the different things we've done here. And, again, thank you so very much for your support.

PRESIDENT GRAYBILL: Mr. Rygg.

DELEGATE RYGG: I'd like to announce the last rendezvous of the Mitchell Gang in Room 437, immediately on recess.

PRESIDENT GRAYBILL: The Mitchell Gang, eh? Okay.

Mr. Murray.

DELEGATE MURRAY: Before I call the last Rules Committee meeting, I would like to discuss a little communication I received from the Laurel bard. It reads: "The silver-haired barrister, he sat and he smiled. His laugh was infectious, his temper was mild. He checked all the chicks with a practiced eye, but because of the rules, he refrained with a sigh." (Laughter) Then, I received another. This one is significant: "Leo, the lion, he pulled and he pushed. He hammered and gaveled until he was bushed. But he got us to finish—the compact's complete. Graybill has triumphed, there will be no retreat."

(Laughter—Applause)

PRESIDENT GRAYBILL: Where were all those authors when we needed language on the ballot yesterday? (Laughter)

Mr. Murray.

DELEGATE MURRAY: Mr. President, he was on Style and he has practiced a little and gotten better as we've gone along. Rules Committee, immediately on adjournment, in the rules Committee room.

PRESIDENT GRAYBILL: Very well, other committee meetings?

Mr. Martin.

DELEGATE MARTIN: Mr. Chairman, the other day Rod Hanson read a statement from Benjamin Franklin—and we have it—which will be distributed to the desks some time by the pages today. And one other thing: I've been trying to gather up some opinions from the delegates, and I have, I think, all but eight. Will those eight—and I wish I could be a shepherd, like George here, and ask—but would those eight kind of—let me have their answers?

PRESIDENT GRAYBILL: Is that the unanswered eight, huh? All right.

Mr. Romney.

DELEGATE ROMNEY: Mr. President, delegates who have been participating in this "project brown envelope", I wish that whoever has it would get it back to desk 81 upon adjournment. I also, Mr. Chairman, wish to point out one thing that has perhaps escaped many of you as you looked and signed these little booklets. Never in all my born days did I ever see so many young people. (Laughter)

PRESIDENT GRAYBILL: Mrs. Van Buskirk.

DELEGATE VAN BUSKIRK: Now that we have worked together for the past 2 months, I was wondering if the group here would be in favor of having any group reunion?

PRESIDENT GRAYBILL: Mrs. Van Buskirk, this subject has come up and we'll be taking care of it later, but not before the election. I might say, in reference to Mr. Romney's remarks, that if we haven't learned anything else at this Convention, we've learned how to write our names. (Laughter)

Very well. Mr. Brown, you had an announcement?

DELEGATE BROWN: Well, I'm rising on behalf of Delegate Sparks. She would like to correct the President—and in spite of what happened to Dave Holland, she is still Miss Sparks—and she didn't say No yesterday, she just shook her head—unless she wants to yield and speak for herself. She's still shaking. (Laughter)

PRESIDENT GRAYBILL: Very well.

Mrs. Warden.

DELEGATE WARDEN: Mr. President, are you going to make the announcement about the Voter Education Committee?

PRESIDENT GRAYBILL: Yes, I've got that down here yet.

Mrs. Babcock.

DELEGATE BABCOCK: Mr. President, I would like to on behalf of the city of Helena and on behalf of the Colonial Club, thank all of you for being in Helena and for the wonderful things that you've done for the Colonial; and it's just been great to have you all here.

PRESIDENT GRAYBILL: All right, Mr. Siderius.

DELEGATE SIDERIUS: Mr. Chairman, I'd like to make one announcement. Being that this is all through now, why, I guess I can make it. No more pencils, no more books, no more delegates' cross-eyed looks. (Laughter)

PRESIDENT GRAYBILL: Mr. James.

DELEGATE JAMES: Mr. Chairman, fellow delegates, and the people of Helena. I'd really like to—Betty made me think of this—thank all the people of Helena and especially the tolerant police force for their attitude toward the delegates and their hospitality. And it's been a great experience.

PRESIDENT GRAYBILL: Very well. Now, we have a—I have an announcement from Ray Loman, the Sergeant-at-Arms. The delegates can turn in their desk and locker keys at the sergeant's office, and also the black ring-binders belonging to the House can be returned to the sergeant's office. If you have envelopes for your keys—if you still have them in your desk drawers, he'd like the keys in the envelope; if not, I guess you can put them in one of the regular envelopes. He also has some cardboard boxes available to help you out. Mr. Hanson informs me that the post office keys should be returned to the post office. The printing clerk, Jean Fallan, has asked me to announce that, really, there isn't any printing available today. The presses are running as fast as possible, trying to get out 5,000 copies of the Constitution, 5,000 copies of the information sheet that will help you delegates discuss the Constitution intelligently; and when that's through, the leadership has three or four matters piled up, such as the copy of the official Constitution that Mr. Garlington referred to, and two or three other things; so we'd rather that you did not expect or ask the printing department to print for you today.

Mr. Blaylock.

DELEGATE BLAYLOCK: Mr. President, I've already had a request about these Constitutions. How much will they cost?

PRESIDENT GRAYBILL: I don't think we know, and if we can get them printed—which we'll find out today—we'll try and get a little order blank on your desk tomorrow that you could fill out. We may have to send them to you later.

DELEGATE BLAYLOCK: I have a request, Mr. President, for as many as a thousand copies. So I just—

PRESIDENT GRAYBILL: Well, now, you understand that we are going to supply every delegate, tomorrow, with 50 copies of the Constitution, and we will continue to print and have available in the Constitutional Convention office here a lot of copies of the Constitution; as long as they're not being wasted, we don't mind printing them. We're going to print, I think, 10,000 copies and have 5,000 that we're going to give you tomorrow, but we just can't get that many through the print shop. As I told you the other day, a hundred is nothing but a hundred and sixty thousand sheets is a lot, and it takes some time. So, they—both the—the one that we are going to give you to take home is going to be single-spaced, but the one that Mr. Garlington is talking about would be a printed copy, with the signatures on it, of the copy that we are signing tomorrow of the official Constitution; and if we can work it out, we're going to try and print that, too; and if you want that, we may want you to defer the cost of that, which I would think would not be great. Let's see—now, let's see—the next announcement I have is that the Voter Education Committee will meet at 11 o'clock. I think probably we'd better meet in the Legislative Committee room on the fourth floor behind the Convention Hall. The Voter Education Committee, at 11 o'clock. Now, some of what you've seen this afternoon is but a mild prelude to the frivolity that it—will take place at the delegates' dinner tonight, so please get your reservations in for the delegates' dinner if they aren't already in. And I don't even know what time it starts—6:30, I believe—6:30 the drinking begins and dinner will be afterwards—(Laughter) Well, now, wait a minute. I guess I don't want to put that restriction on this body this afternoon. (Laughter)

Mr. Davis, you'd like to move to start earlier? (Laughter)

DELEGATE DAVIS: At least I'd like to get a roll call vote on it. (Laughter) Mr. President, on the side, it occurs to me we may not have an opportunity tomorrow, but I think that it might be appropriate to give a round of applause and express for the record our appreciation for our chief clerks, our journal clerk, and Marie, and our Sergeant-at-Arms, and all the people here in Helena at the Capitol for all the courtesies they have extended us in their research. We are about, now, at the end of the thing, really evaluating and realizing what a tremendous job a lot of people have done towards making this Commission a success—or this Convention a success—for the last 2 or 3 years in research and everything else; but I would like to give a big hand to all these folks up here—John and the ladies and Marie and the Sergeant-at-Arms for—and all the rest of the people here at the Capitol for all their help.

(Applause)

PRESIDENT GRAYBILL: Now, Mr. Davis, for your information, we will include in the record tomorrow, in the formal ceremony, a resolution which will formally memorialize them; but I think your personal expression of opinion is echoed by all the delegates. And I'm sure that we all deeply appreciate the work that our crew has done here; and I, personally, want to thank each of them. We've had a marvelous group and a marvelous working relationship, and I appreciate it.

Mr. Hanson.

DELEGATE ROBERT HANSON: Mr. President, I'd like to add to what Carl just said; and many of us in this chamber have worked with Frank Morgan in the printing department; but there are many, many that haven't; and I think that Frank and his crew should be included in that, because I feel that he has done a real good job and gotten the work of the Convention out in very good shape.

PRESIDENT GRAYBILL: Very well.

Mr. Brown.

DELEGATE BROWN: Mr. Chairman, Marie gets paid by the page, and she's asked me to thank Carl Davis for his past services. (Laughter)

PRESIDENT GRAYBILL: Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. President, I assume we're all through, so I'll—

PRESIDENT GRAYBILL: Well, let's see, is there anyone else who would like to make an announcement?

(No response)

PRESIDENT GRAYBILL: Very well, Mr. Eskildsen, it's all yours.

DELEGATE ESKILDSEN: Mr. President, I move we stand adjourned until March 24th, 10:00 a.m., 1972.

PRESIDENT GRAYBILL: Before the Chair puts that motion, the office has just phoned in the last announcement. If there are any address changes from the directory—from the blue directory, please notify Mel McGuinn before you leave here, because we're going to have a lot of mailing to do to you; so if there are any address changes, Mel wants to know that before you leave. Very well, all in favor of adjourning until 10:00 a.m. tomorrow morning, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No. (No response)

PRESIDENT GRAYBILL: So ordered.

(Convention adjourned at 10:40 a.m.)

March 24, 1972
10:00 a.m.

Fifty-Fourth Day

Convention Hall
Helena, Montana

PRESIDENT GRAYBILL: The Convention will be in order. First of all, I'd like to welcome all of our friends who are here this morning for this final session of the Montana Constitutional Convention. I want to get started. I'm sure it's going to get hot in here before we get finished, and we'd like to get going. So if we'll all—if we're all ready, I'd like to first call upon the Reverend H. R. Anderson, Jr., of the First Presbyterian Church in Great Falls, Montana, who will lead us in an invocation. Will you please stand.

REVEREND ANDERSON: Let us pray. O God, by whose good purpose and will men have been granted authority and power in human affairs, we begin this ceremony by expressing our gratitude to You for all that has brought us to this significant hour. We thank You for the privileges and responsibilities given these delegates in their election; for their ability to discuss, debate and decide the issues brought before them; for the humility to listen and the courage to rethink; and above all, for the mutual accord that has brought this new document into being. Grant, O God, that the citizens of this state may give this document their highest and wisest consideration, that the future of this state may be enriched and enhanced to Your glory and the welfare and benefit of us all. Through Jesus Christ, our Lord, we pray. Amen.

PRESIDENT GRAYBILL: Very well, if you'll remain standing, I would like to ask Delegate Cedor Aronow to lead us in the Pledge of Allegiance.

Mr. Aronow.

(Delegate Aronow led the Convention and guests in the Pledge of Allegiance to the flag)

PRESIDENT GRAYBILL: Very well. As usual, we will take roll by voting Aye on the voting machines. Will the delegates please vote Aye on the voting machines. Very well, cast the ballot.

Aasheim	Present
Anderson, J.	Present
Anderson, O.	Present
Arbanas	Present
Arness	Present
Aronow	Present
Artz	Present
Ask	Present
Babcock	Present
Barnard	Present
Bates	Present
Belcher	Present
Berg	Present
Berthelson	Present
Blaylock	Present
Blend	Present
Bowman	Present
Brazier	Present
Brown	Present
Bugbee	Present
Burkhardt	Present
Cain	Present
Campbell	Present
Cate	Present
Champoux	Present
Choate	Present
Conover	Present
Cross	Present
Dahood	Present
Davis	Present
Delaney	Present
Driscoll	Present
Drum	Present
Eck	Present
Erdmann	Present
Eskildsen	Present
Etchart	Present
Felt	Present
Foster	Present
Furlong	Present
Garlington	Present
Gysler	Present
Habedank	Present
Hanson, R.S.	Present
Hanson, R.	Present
Harbaugh	Present
Harlow	Present
Harper	Present
Harrington	Present
Heliker	Present
Holland	Present
Jacobsen	Present
James	Present
Johnson	Present
Joyce	Present
Kamhoot	Present
Kelleher	Present
Leuthold	Present
Loendorf	Present
Lorello	Present
Mahoney	Present
Mansfield	Present

Martin	Present
McCarvel	Present
McDonough	Present
McKeon	Present
McNeil	Present
Melvin	Present
Monroe	Present
Murray	Present
Noble	Present
Nutting	Present
Payne	Present
Pemberton	Present
Rebal	Present
Reichert	Present
Robinson	Present
Roeder	Present
Rollins	Present
Romney	Present
Rygg	Present
Scanlin	Present
Schiltz	Present
Siderius	Present
Simon	Present
Skari	Present
Sparks	Present
Speer	Present
Studer	Present
Sullivan	Present
Swanberg	Present
Toole	Present
Van Buskirk	Present
Vermillion	Present
Wagner	Present
Ward	Present
Warden	Present
Wilson	Present
Woodmansey	Present
Mr. President	Present

CLERK HANSON: Mr. President, 100 delegates present.

PRESIDENT GRAYBILL: Very well, the journal may so show. At this time, without objection, the Chair would like this Convention to be on Order of Business Number 7, Motions and Resolutions. Is there objection?

(No response)

PRESIDENT GRAYBILL: Very well. At this time I'd like to call on Vice President Toole to take the Chair.

Mr. Toole.

VICE PRESIDENT TOOLE: Thank you, Mr. President. Order of Business Number 7, Motions and Resolutions. The clerk has a resolution to read, I believe.

CLERK HANSON: "Montana Constitutional Convention, 1971-1972. Resolution Number 20, introduced March 24, 1972. A resolution paying tribute to the employees and interns of the Convention. Whereas, as the Montana Constitutional Convention concludes, it is fitting for the membership to review the weeks of deliberations and assess accomplishments; Whereas, we find the fruits of our labor good and commend the proposed Constitution to all Montanans; Whereas, no summary of the Convention's accomplishments would be adequate without an accolade acknowledging the staff's dedicated work; Whereas, in recognition of the contributions to this nonpareil staff, it is hereby resolved that a lasting tribute to the following Convention employees be spread upon the Convention journal: Research Coordinator, Dale A. Harris; Research Analysts: Bill of Rights, Rick Applegate; Legislative, Rich Bechtel; Executive, Karen Beck; Judiciary, Sandra Muckelston; Local Government, Jerry Holloron; Revenue and Finance, Roger Barber; Education and Public Lands, Bruce Sievers; Public Health, Welfare and Labor, Dick Spall; Natural Resources and Agriculture, Chuck Sullivan; General Government and Constitutional Amendment, Jim Grady; Key Personnel: Style and Drafting, Gardner Cromwell; Research Coordinator, Diana Dowling; Committee Coordinator, Max Baucus; Public Information Director, Elizabeth Harrison; Chief Clerk, John Hanson; Printing Clerk, Jean Fallan; Bookkeeper, Al Brown; Chief Steno, Betty Jakovac; Librarian, Juanita Fontana; Steno Pool: Assistant Steno, Eve Seeley; MTST Typist, Gail Smith; MTST Typist, Jane Brown Jones; MTST Typist, Dee Christiansen; MTST Typist, Janice Saeman; Typist-Steno, Jean Geier; Typist-Steno, Ellen Reid; Typist-Steno, Mary Kunnary; Typist-Steno, Louise Sullivan; Typist-Steno, Bernice Jacobson; Typist-Steno, Douglas Easton; Typist-Steno, Louise Fulbright; Typist-Steno, Terry Sather; Others: Journal Clerk, Rosemary Acher; Assistant Journal Clerk, Rosella Wilson; Journal Typist, Beverly Hilger; Sergeant-at-Arms, Ray Loman; Supply Clerk, Warren Neyenhuis; Reading Clerk, Ed Smith; Committee Secretaries: Bill of Rights, Darlene Corbin; Legislative, Judy Pratt; Executive, Barbara Lester; Judiciary, Ellen McCarthy; Local Government, Pat Romine; Revenue and Finance, Karen Holliday; Education and Public Lands, Sally Watson; Public Health, Welfare and Labor, Sylvia Kinsey; Natural

Resources and Agriculture, Elaine Rung; General Government and Constitutional Amendment, Bobby Murphy; Other Secretaries: President, Roberta Moody; Vice President, Melba McGuinn; Executive Director, Bartley Carson; Floor Leaders and Rules Committee, Alice Berner; Public Information Secretary, Patricia Tyanich; Typist, Sue Phillips; Media, Mary Holt; Style and Drafting, Elizabeth Nelson; Secretary to the Clerk, Karen Kelly; Eastern and Western District Vice Presidents and Secretary, Dorothy ZurMuehlen; Duplicating: Frank Morgan, Beulah Walter, Elizabeth Vollertson, Patricia Warfield, Arnold Opitz, David Rodgers, David West, Frances Warner, Margaret Waddell, Vivian Sherwood, Michael Weber, Edward Perkl; Mail Room: Bill Thompson, Isabel Creighton, Lucille Reiner; Interns: Mark Bowlds, Robert J. Buzzas, Maureen Callahan, Pat Chvatal, John F. Crawford, Holly Darlington, Mona J. Earley, Gary Graham, Randall Gray, Kandice J. Hauf, Kayle Jackson, LeeAnn Jersey, Blake Johnson, Steve Jones, Kurt Krueger, Michael Larum, Dodge Leary, Nancy Lien, George Mahoney, John Murphy, George Paul, Ray Perryman, Jeffrey K. Rupp, Edwin Shannon, Robert Skaggs, Kathleen Sullivan, Don Walchuk." Mr. Vice President, Resolution Number 20.

VICE PRESIDENT TOOLE: Mr. Murray.

DELEGATE MURRAY: Mr. Vice President, I move that Resolution Number 20 be adopted.

VICE PRESIDENT TOOLE: Members of the Convention, you've heard the resolution that the—the motion that the resolution be adopted. All in favor, say Aye.

DELEGATES: Aye.

VICE PRESIDENT TOOLE: Opposed, No.

(No response)

VICE PRESIDENT TOOLE: Motion carried. There being no objection, we will now move to Order of Business Number 3, Communications.

CLERK HANSON: "March 23rd. Constitutional Convention, State Capitol, Helena, Montana. My compliments to delegates at the Constitutional Convention, staff and advisers, in completing the arduous and difficult task of reviewing and recommending revisions in Montana's Constitution. The people of Montana have demonstrated an interest in updating their state governmental process, and the work you have done at the Convention will be a major step forward in enabling the State of Montana to meet its responsibilities in a time of complex and difficult issues. While I have not seen the final document, I'm impressed with the spirit of unity and nonpartisan nature of your deliberations. Congratulations and my personal regards to all on this momentous occasion. Regards, Mike Mansfield, Majority Leader, U.S. Senate."

(Applause)

CLERK HANSON: "March 23rd. Leo Graybill, Jr., President, Montana Constitutional Convention, Helena, Montana. As you conclude your efforts, please relay my personal regards and congratulations to the delegates to the Montana Constitutional Convention for a difficult job well done. Generations to come will benefit from your diligence and devotion to the best interests of the public we serve. Sincerely, Lee Metcalf."

(Applause)

CLERK HANSON: "March 22nd. Leo Graybill, Jr., Montana Constitutional Convention, Helena, Montana. On the occasion of the closing of the Montana Constitutional Convention, I would like to take this opportunity to commend each of the delegates on their efforts on behalf of the people of Montana. Their initiative and responsive attitude for the laws of our state is greatly appreciated. Sincerely, Richard Shoup."

(Applause)

VICE PRESIDENT TOOLE: If there is no objection, we'll move now to Order of Business Number 9, Special Orders. And members of the Convention, distinguished guests, we have a gentleman with us who's come a long way to attend these ceremonies, and we appreciate it, and it gives me great pleasure to introduce to you at this time the Chief Executive of the State of Montana, His Excellency, Forrest Anderson.

(Applause)

GOVERNOR ANDERSON: Thank you very much. Mr. Chairman, distinguished members of the Constitutional Convention. This historic Convention was a session of only 2 months, and in this abbreviated space of time, you have attempted to decide the great issues of Montana, now and for the future. You have thought, you have argued, and you have compromised; and now the result of your efforts, this new Constitution, belongs to the people of Montana. If you had the courage to make the changes that were necessary and the wisdom to avoid those that were not, Montanans will approve this Constitution. If the public interest was faithfully represented in your deliberations, Montana will approve this Constitution. And if you have provided for the protection of the rights of individuals, without placing unnecessary restrictions on government, Montana will approve the Constitution. I have not had an opportunity to study your work in its total and, thus, I don't want to comment at this time; but I know, having been in the Capitol and having watched you, you have worked hard; and I want to compliment every member of this august body, because you have done, in my judgment, that job which you were sent here to do. Your work, however, is not over. If I am correct, my judgment directs that you and all of us must, between now and June the 6th, sell this document to the people of Montana. You must sell this document the same way that I sold to the people of Montana the Montana Executive Reorganization Act. It was a tough job, but it was a good result; and I know you've had a tough job; and I think that you've done a good job; and I hope that you will go out and sell the efforts that you have used so extensively here—namely, a new Constitution—so that we can start a new era in this great state. During this Convention, you have received intense coverage from the news media, and I imagine that there are many delegates who now consider them politicians—consider themselves politicians. I assure you that if you, as delegates, attempt to use this Convention to further your immediate political ambitions, the efforts that you have made here will, in my judgment, be destroyed and chances for public approval of this document, a major document, will diminish in relation to the number who place personal considerations ahead of the sale of this Constitution. I ask you to go out and sell it. I think you've done a good job—and forget the politics for now. Let's get Montana moving forward. That was what you were sent down here to do, and I think up till now you have done a good job, and I hope—I truly hope you continue to do a good job. In any place, any time, anywhere where you find it necessary or even advisable to call upon the Chief Executive to help you in the sale of this instrument to the people of Montana, please feel free to call on me. I will do everything I can on your behalf and on the behalf of the people of the state. Thank you very much, and God bless you.

(Applause)

VICE PRESIDENT TOOLE: Members of the Convention and guests, it gives me great pleasure at this time to introduce to you an old friend and one known to all of you, the acting Chief Justice of the State of Montana, the Honorable John C. Harrison.

(Applause)

ACTING CHIEF JUSTICE HARRISON: Mr. Chairman, members of this historic Constitutional Convention. I want to tell you how delighted I am to be here to represent the Supreme Court on this occasion. I must admit that it's with some surprise, in view of what I have read in the papers for the past several months, and particularly this morning's paper—and a temptation to use these few minutes in rebuttal is great, inasmuch as I have you all here—but that we will not do. I am sure that if this document is approved by the State of Montana—the people of the State of Montana—there will be much occasion to use the Supreme Court in the years ahead. God bless you, and have a safe trip home.

(Applause)

VICE PRESIDENT TOOLE: Thank you, Justice Harrison. We have with us this morning, members of the Convention and guests, a gentleman who drove 200-plus miles to be with us, the senior senator of the State Senate of Montana. He's been in these halls frequently during the past few weeks, not lobbying—observing and taking a profound interest in our proceedings. It gives me a great pleasure to introduce to you Senator James of Joplin.

(Applause)

SENATOR JAMES: Mr. Chairman, distinguished guests, ladies and gentlemen, delegates. It is my pleasure, in behalf of my colleagues in the Senate, to extend congratulations to the Convention, to your officers, in this auspicious event marking the completion of the drafting and the signing of the document that probably henceforth will be known as the Constitution of—the Montana Constitution of 1972. It is my hope and my wish, desire, and my prayer that after sufficient time has passed and after sufficient time has been taken by the public, including myself, to thoroughly read, study, analyze and digest this document, that it will be said that it is found to be adequate for our needs, sufficient for our liking and our desires, and that we may then be inspired to say, "The Constitution is well-written." You have done a good job, good and faithful delegates—a very, very good job. Thank you.

(Applause)

VICE PRESIDENT TOOLE: Thank you, Senator James. The Honorable Thomas Haines, the Dean of the House of Representatives, is not with us, apparently. We had hoped that he would be able to make it; unless he's hiding in the back of the Hall someplace, we regretfully have to announce that Tom couldn't make it. The Honorable Earl Old Person, Chairman of the Blackfeet Tribal Council, was scheduled to be with us but, likewise, had to cancel out at the last minute; but it gives me a great deal of pleasure to introduce to you the next lady, Mrs. Firman Brown. She has been in this proceeding since the beginning. She was a member of the Constitutional Revision Commission, the Constitutional Convention Commission. She has studied constitutional history and is writing a dissertation on that now at the University of Montana, and there probably is no one who has exhibited more profound interest and continuing interest in this process than Marge Brown. It gives me a great deal of pleasure to call on her at this time.

(Applause)

MRS. BROWN: Mr. Chairman and members of the Convention, it's a tremendous privilege to be here. I am sure I speak for hundreds of Montanans who, in official and unofficial ways, in their cities and towns and counties and at the state level, have hoped for many, many years that Montana, in our time, might rewrite a Constitution. From an historical view, I think no one can ever accuse you of borrowing piecemeal from anywhere. This is a Montana Constitution, the product of your labors. I think it's a fine Constitution. I have high hopes for the new beginning in public affairs in Montana—that you have laid the basis for us all. And many thanks to you and congratulations on finishing your endeavors with all the energy and dedication that you have evidenced. Thank you.

(Applause)

VICE PRESIDENT TOOLE: Thank you, Marge. Miss Elaine Koyama has been with us before. She's the Governor of Girls' State, and we're very pleased to have her again. Elaine.

(Applause)

MISS KOYAMA: When I first heard that I was coming—or that I had the opportunity to come, my family and I sat down and my father said, "When I was your age, I wasn't even out of the county yet." He never had the opportunity to even come to the Capitol. And here I am: 17 years old, I have been working at the Capitol for 2 weeks previously, I am the Governor of Girls' State—which is a feat in itself—and I'm just filled with awe that Elaine Koyama is standing before you speaking on—at the Constitutional Convention, a document that you've put together that will be presented to the people. I will be able to vote for or against the Constitution—hopefully for. I know all the people that are here will be voting, and that means that the people who elected all the delegates and the people who are the delegates, and even myself, will be able to vote for what's going to be ruling us—the thing that is going to tell us what we can or cannot do, the thing that gives us our freedom and also restricts our freedom. That means, you know, that our United States is one of the few countries, the very few, that let the people decide. All I can say is "thank you", and thank you for working for all the people of Montana and, in turn, for the United States. It's a fantastic time to be here, and all I can say is "thank you".

(Applause)

VICE PRESIDENT TOOLE: Mr. Chris Milodragovich is the Lieutenant Governor of Boys' State, and it gives me a lot of pleasure to call on him at this time.

(Applause)

MR. MILODRAGOVICH: Mr. President, honored guests, ladies and gentlemen. I'm certainly proud and pleased that I was asked to speak to you today. Very few young people have the opportunity to address this historic assembly. I feel particularly honored as the present Governor of Montana Boys' State—excuse me, Lieutenant Governor—and also as a new voter in Montana. Boys' State was one of the great experiences of my life, not merely because I was elected to a public office, but because I saw the workings of government really in action. As a result of Boys' State, I feel I am better prepared to meet the challenges of a young citizen in our great democracy. On behalf of all Boys' Staters and young people in general, I wish you well in your closing deliberations. We're all watching for your finished article and hope it will be one which we can accept for several generations. We realize your task is not an easy one. We applaud your hard work, your dedication; and so I shall close with a mere "thank you".

(Applause)

VICE PRESIDENT TOOLE: The delegates will recall that, earlier in January, before we convened, the YMCA Youth Constitutional Convention met in this room and drew a Constitution which we considered to be a model and which was a credit to these young people. We have the President of that Constitutional Convention with us, Mr. John Elliott. John.

(Applause)

MR. ELLIOTT: I'd first of all like to thank everyone for inviting me to represent the Youth Constitutional Convention. It's certainly an honor for me, and I'm sure the delegates will thank you for me also. It's kind of interesting that the constitution that we drew up was quite a bit different from yours. It's quite a bit different in a number of ways, mostly because it involves a lot of change. Good examples are that we almost completely appoint the major executive offices, and for the Judicial system we adopted a plan similar to the Missouri proposal, that I believe was introduced here. But there's a reason for this. That's because we weren't answerable to anyone but ourselves; and when you're in a situation like that, you can do just about anything you want; and we did. But you—you, in turn, are in quite a different situation. I always felt that when people criticized the Convention, they had to realize one thing—that you were walking a kind of tightrope—in between pleasing the voters of Montana who are, well, pretty conservative in nature, but at the same time wanting to change the Constitution to something more workable and viable. I think you've done that. You've changed it in many respects. You've done a lot of work, and I'd like to commend you for that work. And thank you again for inviting me to speak.

(Applause)

VICE PRESIDENT TOOLE: Thank you, John. Our last young person—and you have—you see we have them well-represented here because they are the people who will be living under the document that we have written, if it is ratified—is Mr. Joe Holland, President of the Montana Student Association.

(Applause)

MR. HOLLAND: Thank you, Mr. Vice President. Mr. President, members of the Constitutional Convention, ladies and gentlemen. I'm going to make this real short, and I hope it will express my feelings toward this gathering of delegates. I come to you representing the Montana Student Presidents Association. These are the presidents of all the colleges and universities in the State of Montana, and as their representative, I hope I can speak as a representative of some 30,000-plus college and university students in this state. As a student body president from one of our units, I have been given a lot of feedback from various articles—news articles, TV articles, TV programs—on the work that the Con Con has done, and I must say that student reaction has been good. We are a group of very appreciative people in the work that has been set forth in the Constitutional Convention, and hopefully the students in the universities and colleges in Montana will be satisfied with your work and will accept it as their guidelines to proceed with another leg in Montana's history, this being the kickoff point in that important leg. For your work, your time, your effort, I thank you very much, on behalf of the—all the students in the state. Thank you.

(Applause)

VICE PRESIDENT TOOLE: Thank you, Joe. Fellow delegates and distinguished guests, the brief remarks that I am about to make I consider to be the most significant and meaningful of anything I have said on this floor during this Convention. In the lifetime of all of us, we encounter a few rare individuals whose personal qualities elevate him far above those surrounding him. Since last November, I have been privileged to be closely associated with such a man. This Convention has completed its work within its allotted time and within the amount appropriated by the Legislative Assembly. I would like to remind the delegates, at this time, that this was accomplished without once resorting to the gag rule. The man to whom I refer cajoled us, but he never commanded us. When toughness was required, he exhibited toughness. In an enterprise where fairness was vital, he was invariably fair. When physical endurance was required, it was he who set the standard for others to follow. When patient explanation of complex issues was demanded, he never failed us. He was effectively stern, but inexorably patient. His anger never flared, and his sense of humor never failed. And, ladies and gentlemen, long after the rest of us were sleeping snug in our beds, this man labored over financial and administrative details. No item of unnecessary cost escaped his attention. Ladies and gentlemen, we meet here today to sign a great and progressive document which holds great promise for future generations of Montanans. In large measure, our accomplishment was made possible by the labors and the talents of this one man. Ladies and gentlemen, I give you your President, Leo Graybill, Jr.

(Applause)

PRESIDENT GRAYBILL: Mr. Vice President and ladies and gentlemen of the Montana

Constitutional Convention. First of all, John, I want to thank you for what were, obviously, marvelously pleasant remarks from you. I hope I have done some things to justify them, and I want to say now that if this Convention has been able to operate well and in a bipartisan spirit, which we all talked about in November, it is largely due to the services of John Toole, who has done a great deal to help make the thing work in that vein, and I think we all appreciate the partisanship, I guess, ended with my election.

(Applause)

PRESIDENT GRAYBILL: And for that we have John Toole to thank. I've also been interested in listening to the remarks of the administration and of the legislative representatives, and I agree with them that they should carefully read the document before deciding whether or not they are for or against this Constitution. I was most interested in listening to the remarks of these young people who have spoken to us, because they do represent—if we are successful here and if this is ratified, they do represent the people most concerned and the people for whom this Constitution will be long the basic law. But, actually, I come here today to talk with my friends, the delegates, and it's to you that I wish to address my remarks. We are about to complete our work here by signing the document we propose as the Constitution of the State of Montana. The part you have played in the drafting of it will be written in the history of Montana. As the one privileged to have acted as your chairman during these proceedings, I want to seize this opportunity to record some observations about this body and to praise you. Our weeks together here have been a courageous and a meaningful encounter. You know, when we first met in November, we were skeptical. We were novices, and we were unsure. You were, however, men and women of deep conviction and dedication to the cause of writing our new Constitution for Montana. You were dedicated to solving some of the pressing problems of our times, but also preserving the best of our present Constitution. We were a diverse group, eager to investigate, to draft proposals, and to take part in debate. Now, by your efforts and your knowledge, we have enlightened and educated each other and also others who have listened to our proceedings. Sometimes your proposals, individually, were accepted by the body or amended and adopted, and you have shown no undue pride or vanity. Sometimes your ideas were not fully accepted to the—by the body, and when the Convention rejected the ideas you advanced, you showed neither disappointment nor resentment. You simply perservered, and I commend you for it. Rarely has a group of men and women has it—had a task so pressing, so difficult and so monotonous; but that task was welcomed by you as a challenge and an opportunity to devise, revise and reshape the government of Montana. You have always gone ahead with the worthy goal of making Montana's government more responsible and more responsive to the people, both now and in the future. And so, I wish to offer you my sincere praise and congratulations for a job well done. I wish to commend you for your deep conviction and common sense, your clear judgment and heroic endurance, and above all, for your lofty and serene sense of duty, always with an eye to the future. The job of thinking, reasoning and writing this Convention is done. Now, I can only urge that you start working for its ratification on June 6th. We must personally reach everyone everywhere with the truths that are embodied in this document. It will not be easy, for the Constitution is not yet really understood. There are many who are skeptical of it and some who are hostile toward it, even without reason. George Washington said to the drafters of the federal Constitution before it was written—"If, to please the people, we offer what we ourselves disapprove, how can we defend our work? Let us raise a standard to which the wise and honest can repair. The event is in the hand of God." This body has raised the standard to which the wise and honest can repair. Benjamin Franklin, who also participated in that Convention, said of the work of the federal convention: "When a carpenter is making a table and wants to fit the boards together, he has to plane a little off from each edge." So, in this Constitution, each side would have to give way a little in order to fit together all the pieces of the new government. Here in the Montana Convention, this wisdom has been clearly shown. In the general spirit of compromise, our work has been completed. The Constitutional Convention has not been the work of any one man, nor has it been the work of the leading nine or ten men. It has truly been the work of all. Your ideas, your defense of your ideas have contributed, but so has your opposition to and your compromise with the ideas of others. And in the end, your acceptance of the counsel and thought of your fellow delegates has allowed us to generally agree on the principles we have included in our Constitution. And even though we hope we will walk out of this hall as a body agreed on this document, there may be some of us yet who will not sign, who cannot sign, having yielded more than they can reckon with. To any of those, I can only recommend your own conscience as a guide in your final decision; but those will be only a few; and I will respect their decision. To the others who happily signed and who worked toward this moment, I urge also your pledge to work for ratification. The document we have made is worthy of that effort, and I would like to repeat that the event is in the hands of God. My heartfelt good wishes for your continued interest and involvement in state government. Montana is worthy of that and of our efforts. Thank you.

(Applause)

VICE PRESIDENT TOOLE: I was about to ask Mrs. Warden and Mr. Murray to come to the rostrum, but they're already enroute. And, Mr. President, will you please come up here?

DELEGATE WARDEN: This is always the time of the goodies, and it gives me great pleasure on behalf of all the 99 delegates to present to the one delegate who has been our Chairman and our President and who has guided us through this, two gifts from the body. Would you open this first?

PRESIDENT GRAYBILL: You sure I can open it? I don't know. Should I save the paper? Did the Convention buy it? (Laughter)

DELEGATE WARDEN: They threw that in for good measure.

PRESIDENT GRAYBILL: My goodness. My, it's a marvelous plaque. It says: "Leo Graybill, Jr., President of the 1971-72 Montana Constitutional Convention. In recognition of your fairness, dedication, and outstanding leadership. From the other 99 delegates." Thank you so much.

(Applause)

DELEGATE WARDEN: Leo, that was to hang on the wall of our office. This is to take home and enjoy.

(Mrs. Warden presented Mr. Graybill with a second gift)

PRESIDENT GRAYBILL: Do I open it? Wow! *The West of William H. Ashely, 1822-1838.* I'm sure it's a historically significant document about the history of the West, and it's beautifully printed and engraved and bound in leather. I guess we'll have to build a library. (Laughter) It's marvelous. Thank you very much.

DELEGATE MURRAY: And now, Mr. President, on behalf of the other 99 delegates, may I read this letter to you: "The Honorable Leo Graybill, Jr., President, Montana Constitutional Convention, Helena, Montana. Dear Mr. President: We, the delegates to the 1971-72 Montana Constitutional Convention, hereby express to you our sincere gratitude for the excellent manner in which you have conducted the affairs of this Convention. We stand in awe at your physical stamina, mental ability, infinite patience and total fairness. Regardless of the ultimate outcome of our labors, we want you to know that, in our unanimous opinion, you have left a giant imprint on Montana's history. We wish you well and invoke Divine blessings on you all the days of your life. Sincerely."

(Applause)

PRESIDENT GRAYBILL: Well, I must say that that's almost overwhelming, and I just want to thank you very much, and I want to say that there's never been a time nor a delegate that's ever had—done anything to make it hard, and I appreciate your sincere feelings here. Thank you very much.

(Applause)

VICE PRESIDENT TOOLE: Members of the Convention, we will now proceed to sign our new Constitution; and at this time, I want to introduce someone to you, well-known to all of you, who is involved in the process of getting this document signed and recorded—Mr. Frank Murray, the Secretary of State. Frank, would you stand up and take a bow, please.

(Mr. Murray stood to receive the applause of the assembly)

VICE PRESIDENT TOOLE: Will the President now go down and sign the new Constitution and have his signature attested by Mrs. Bowman, the Secretary?

(President Graybill affixed his signature)

(Applause)

VICE PRESIDENT TOOLE: Now, fellow delegates, as the clerk calls your name, so many delegates as wish to sign the new Constitution will please do so. The clerk will call the name of the delegates in alphabetical order, and I think you've been instructed on how to come up and what route to take getting back to your seats.

CLERK HANSON: Magnus Aasheim, District Number 4.

(Delegate Aasheim affixed his signature)

CLERK HANSON: John H. Anderson, Jr., District 21.

(Delegate Anderson affixed his signature)

CLERK HANSON: Oscar L. Anderson, District Number 3.

(Delegate Anderson affixed his signature)

CLERK HANSON: Harold Arbanas, District Number 13.

(Delegate Arbanas affixed his signature)

CLERK HANSON: Franklin Arness, District Number 23.

(Delegate Arness affixed his signature)

CLERK HANSON: Cedor B. Aronow, District Number 15.

(Delegate Aronow affixed his signature)

CLERK HANSON: William H. Artz—Bill—District Number 13.

(Delegate Artz affixed his signature)

CLERK HANSON: Thomas M. Ask, District Number 9.

(Delegate Ask affixed his signature)

CLERK HANSON: Betty Babcock, District 12.

(Delegate Babcock affixed her signature)

CLERK HANSON: Lloyd Barnard, District 5.

(Delegate Barnard affixed his signature)

CLERK HANSON: Grace C. Bates, District 11.

(Delegate Bates affixed her signature)

CLERK HANSON: Don E. Belcher, District 9.

(Delegate Belcher affixed his signature)

CLERK HANSON: Ben E. Berg, Jr., District 11.

(Delegate Berg affixed his signature)

CLERK HANSON: E. M. Berthelson, District Number 15.

(Delegate Berthelson affixed his signature)

CLERK HANSON: Chet Blaylock, District 8.

(Delegate Blaylock affixed his signature)

CLERK HANSON: Virginia H. Blend, District 13.

(Delegate Blend affixed her signature)

CLERK HANSON: Geoffrey L. Brazier, District 12.

(Delegate Brazier affixed his signature)

CLERK HANSON: Bruce M. Brown, District 2.

(Delegate Brown affixed his signature)

CLERK HANSON: Mrs. Daphne Bugbee, District 18.

(Delegate Bugbee affixed her signature)

CLERK HANSON: William A. Burkhardt, District 12.

(Delegate Burkhardt affixed his signature)

CLERK HANSON: Marjorie Cain, District 23.

(Delegate Cain affixed her signature)

CLERK HANSON: Bob Campbell, District 18.

(Delegate Campbell affixed his signature)

DELEGATE CAMPBELL: The Constitution is our child. Contrary to Governor Anderson's address, it is not for sale to the people of Montana; it's being placed up for adoption.
(Applause)

CLERK HANSON: Jerome J. Cate, District 8.

(Delegate Cate affixed his signature)

CLERK HANSON: Richard J. "Rick" Champoux, District 16.

(Delegate Champoux affixed his signature)

CLERK HANSON: Lyman W. Choate, District 2.

(Delegate Choate affixed his signature)

CLERK HANSON: Max Conover, District 8.

(Delegate Conover affixed his signature)

CLERK HANSON: C. Louise Cross, District 3.

(Delegate Cross affixed her signature)

CLERK HANSON: Wade J. Dahood, District 19.

(Delegate Dahood affixed his signature)

CLERK HANSON: Carl M. Davis, District 21.

(Delegate Davis affixed his signature)

CLERK HANSON: Douglas Delaney, District 10.

(Delegate Delaney affixed his signature)

CLERK HANSON: Maurice Driscoll, District 20.

(Delegate Driscoll affixed his signature)

CLERK HANSON: Dave Drum, District 8.

(Delegate Drum affixed his signature)

CLERK HANSON: Dorothy Eck, District 11.

(Delegate Eck affixed her signature)

CLERK HANSON: Marian S. Erdmann, District 13.

(Delegate Erdmann affixed her signature)

CLERK HANSON: Leslie Joe Eskildsen, District 5.

(Delegate Eskildsen affixed his signature)

CLERK HANSON: Mark Etchart, District 4.

(Delegate Etchart affixed his signature)

CLERK HANSON: James R. Felt, District 8.

(Delegate Felt affixed his signature)

CLERK HANSON: Donald R. Foster, District 10.

(Delegate Foster affixed his signature)

CLERK HANSON: Noel D. Furlong, District 16.

(Delegate Furlong affixed his signature)

CLERK HANSON: J. C. Garlington, District 18.

(Delegate Garlington affixed his signature)

CLERK HANSON: E. S. "Erv" Gysler, District 14.

(Delegate Gysler affixed his signature)

CLERK HANSON: Otto T. Habedank, District 3.

(Delegate Habedank affixed his signature)

CLERK HANSON: R. S. "Bob" Hanson, District 17.

(Delegate Hanson affixed his signature)

CLERK HANSON: Rod Hanson, District 15.

(Delegate Hanson affixed his signature)

CLERK HANSON: Gene Harbaugh, District 4.

(Delegate Harbaugh affixed his signature)

CLERK HANSON: Paul K. Harlow, District 23.

(Delegate Harlow affixed his signature)

CLERK HANSON: George Harper, District 12.

(Delegate Harper affixed his signature)

CLERK HANSON: Dan W. Harrington, District 20.

(Delegate Harrington affixed his signature)

CLERK HANSON: George B. Heliker, District 18.

(Delegate Heliker affixed his signature)

CLERK HANSON: David L. Holland, District 20.

(Delegate Holland affixed his signature)

CLERK HANSON: Arnold W. Jacobsen, District 16.

(Delegate Jacobsen affixed his signature)

CLERK HANSON: George H. James, District 23.

(Delegate James affixed his signature)

CLERK HANSON: Torrey B. Johnson, District 1.

(Delegate Johnson affixed his signature)

VICE PRESIDENT TOOLE: (Gaveling for order) Now, members of the Convention, I realize this is a long, drawn-out affair. It is also a most important and a most historical one, and it will not present us with the right kind of an impression to the media if the membership is wandering around and engaging in idle conversation, and I hope you will bear with us while the ceremony goes on and take your seats and be reasonably quiet.

CLERK HANSON: Thomas F. Joyce, District 20.

(Delegate Joyce affixed his signature)

CLERK HANSON: A. W. Kamhoot, District 6.

(Delegate Kamhoot affixed his signature)

CLERK HANSON: Robert Lee Kelleher from District 8.

(Delegate Kelleher affixed his signature)

CLERK HANSON: John H. Leuthold, District 7.

(Delegate Leuthold affixed his signature)

CLERK HANSON: Jerome T. Loendorf, District 12.

(Delegate Loendorf affixed his signature)

CLERK HANSON: Peter "Pete" Lorello, District 19.

(Delegate Lorello affixed his signature)

CLERK HANSON: Joseph H. McCarvel, District 19.

(Delegate McCarvel affixed his signature)

CLERK HANSON: Russell C. McDonough, District 3.

(Delegate McDonough affixed his signature)

CLERK HANSON: Mike McKeon, District 19.

(Delegate McKeon affixed his signature)

CLERK HANSON: Charles B. McNeil, District 17.

(Delegate McNeil affixed his signature)

CLERK HANSON: Charles H. Mahoney, District 12.

(Delegate Mahoney affixed his signature)

CLERK HANSON: Mrs. Rachell K. Mansfield, District 14.

(Delegate Mansfield affixed her signature)

CLERK HANSON: Fred J. Martin, District 11.

(Delegate Martin affixed his signature)

CLERK HANSON: J. Mason Melvin, District 11.

(Delegate Melvin affixed his signature)

CLERK HANSON: Lyle R. Monroe, District 13.

(Delegate Monroe affixed his signature)

CLERK HANSON: Marshall Murray, District 16.

(Delegate Murray affixed his signature)

CLERK HANSON: Robert B. "Bob" Noble, District 13.

(Delegate Noble affixed his signature)

CLERK HANSON: Richard A. Nutting, District 7.

(Delegate Nutting affixed his signature)

CLERK HANSON: Mrs. Katie Payne, District 18.

(Delegate Payne affixed her signature)

CLERK HANSON: Catherine Pemberton, District 1.

(Delegate Pemberton affixed her signature)

CLERK HANSON: Donald Rebal, District 13.

(Delegate Rebal affixed his signature)

CLERK HANSON: Arlyne E. Reichert, District 13.

(Delegate Reichert affixed her signature)

CLERK HANSON: Mrs. Mae Nan Robinson, District 18.

(Applause)

(Mrs. Robinson affixed her signature)

CLERK HANSON: Richard B. Roeder, District 11.

(Delegate Roeder affixed his signature)

CHAIRMAN GRAYBILL: George W. Rollins, District 8.

(Delegate Rollins affixed his signature)

CLERK HANSON: Miles Romney, District 22.

(Delegate Romney affixed his signature)

CLERK HANSON: Sterling Rygg, District 16.

(Delegate Rygg affixed his signature)

CLERK HANSON: Don Scanlin, District Number 8.

(Delegate Scanlin affixed his signature)

CLERK HANSON: John M. Schiltz, District 8.

(Applause)

(Delegate Schiltz affixed his signature)

CLERK HANSON: Henry L. Siderius, District 16.

(Delegate Siderius affixed his signature)

CLERK HANSON: Clark E. Simon, District 8.

(Delegate Simon affixed his signature)

CLERK HANSON: Carman Skari, District 14.

(Delegate Skari affixed his signature)

CLERK HANSON: M. Lynn Sparks, District 20.

(Applause)

(Delegate Sparks affixed her signature)

CLERK HANSON: Lucile Speer, District 18.

(Applause)

(Delegate Speer affixed her signature)

CLERK HANSON: R. J. Studer, Sr., District 8.

(Delegate Studer affixed his signature)

(Applause)

CLERK HANSON: Mrs. John Justin (Veronica) Sullivan, District 20.

(Delegate Sullivan affixed her signature)

CLERK HANSON: William H. Swanberg, District 13.

(Delegate Swanberg affixed his signature)

CLERK HANSON: John H. Toole, District 18.

(Applause)

(Delegate Toole affixed his signature)

CLERK HANSON: Mrs. Edith Van Buskirk, District Number 14.

(Delegate Van Buskirk affixed her signature)

CLERK HANSON: Robert Vermillion, District 15.

(Delegate Vermillion affixed his signature)

CLERK HANSON: Roger A. Wagner, District Number 4.

(Delegate Wagner affixed his signature)

CLERK HANSON: Jack K. Ward, District 22.

(Delegate Ward affixed his signature)

CLERK HANSON: Margaret S. Warden, District 13.

(Delegate Warden affixed her signature)

CHAIRMAN GRAYBILL: Archie O. Wilson, District 6.

(Applause)

(Delegate Wilson affixed his signature)

CLERK HANSON: Robert F. Woodmansey, District 13.

(Applause)

(Delegate Woodmansey affixed his signature)

SECRETARY BOWMAN: Mr. President, all 100 delegates have signed.

(Applause)

VICE PRESIDENT TOOLE: Mr. Murray will now affix the official Seal to the Constitution.

(Secretary of State Murray affixed the Great Seal of the State of Montana to the Constitution)

MR. MURRAY: Your order has been obeyed.

VICE PRESIDENT TOOLE: Thank you, Mr. Murray. All—

(Applause)

VICE PRESIDENT TOOLE: All of the speculation about who would and who would not sign has now officially terminated. (Laughter) And with that, I will turn the Chair back to our President.

PRESIDENT GRAYBILL: Without objection, we'll be on Order of Business Number 11, Announcements. The Chair has been asked to announce that, on adjournment, the four procedural committees who did not have pictures taken—we'll take some pictures right here in front as quickly as possible of the four procedural committees and the officers, as soon as we adjourn. The Chair has also been asked to announce that the printing presses have been rolling while we've been sitting here; and if you will all allow, the pages will, within about 20 minutes to a half an hour, put upon your desks 50 copies of the explanation of the Constitution and, for those who are from out of town, at least 25 copies of the Constitution. We're still stapling and we're not quite up, so those of you from Helena may have to pick up your copies of the Constitution a little later. We want those who are leaving town to be able to take as many as possible back with them. We've had—for the benefit of the audience—quite a difficult time stapling 10,000 copies of the Constitution. And if you will just be a little patient, within 15 or 20 minutes after adjournment, the pages will have put on your desks this material which you can take home with you so that you'll have it available. Are there other announcements?

(No response)

PRESIDENT GRAYBILL: Very well. Mr. Eskildsen, have you a motion?

DELEGATE ESKILDSEN: Mr. President, many words have been spoken—many hours of deliberation, working from morning till night. Our job is now coming to a close. But from this hour on, we should dedicate ourselves to being available to our constituents so that they may find answers to the many questions that will be in their minds. Mr. President, there being no further business concerning the drafting of the proposed Constitution to come before us and our draft being completed and signed, I move that the Constitutional Convention at this hour, 12 o'clock noon, this day, March 24, 1972, be adjourned sine die.

PRESIDENT GRAYBILL: So many as shall be in favor of the motion to adjourn sine die, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

(No response)

PRESIDENT GRAYBILL: It's so ordered.

(Applause)

(Convention adjourned sine die at 12:00 noon, March 24, 1972)

PRESIDENT GRAYBILL: May I have your attention? Will you please remain standing. I, not looking at my green sheet, overlooked the benediction. At this time, the Most Reverend Raymond Hunthausen, the Bishop of Helena, will give us his invocation. Excuse me, Bishop.

BISHOP HUNTHAUSEN: Let us pray. Almighty God, our Father, in Your love You direct us to strive constantly for understanding, justice and love among ourselves. Mindful of this, we pray today that the sincere efforts made by this Constitutional Convention to improve the order and condition of our lives may effectively bring us closer to Your promised time, that time when true hospitality and peace will reign, when we shall beat our spears into pruning hooks and brother will not raise his hand against brother. We thank You, Father, for Your goodness toward us, shown in so many ways; for the freedom we possess in our beautiful and bountiful land. We thank You for the friendships that were forged here among our people, and especially we thank You for these dedicated men and women of the Constitutional Convention, struggling to bring more of goodness and peace, respect and dignity into our lives. Finally, we pray that You continue to give all of us, Your people, the strength necessary to persevere in our dedication, our love for You and for one another. We ask this in the name of Christ, our Lord, Amen.